

KONSERVATIVISMUS

PANAJOTIS KONDYLLIS



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Translator's note

This is a machine translated version of Kondylis' Conservatism using chatGPT, so take it with a grain of salt. I don't speak German unfortunately, and his main historiographic works have yet to be officially translated. There is another machine translation version out there, but the formatting is poor, and renders it basically unreadable. Take everything in here with a grain of salt. Mistakes may have slipped in. I've also had issues with the footnote formatting so numbers are doubled. Enjoy.

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CONTENTS

I. THE CONCEPT OF CONSERVATISM

1. Conservatism in the Socio-Political and Intellectual Spectrum of Modernity
2. "Conservatism" as a Contemporary Political Catchword

II. SOCIAL-HISTORICAL CONTENT AND THOUGHT STRUCTURE OF ANTI-ABSOLUTIST CONSERVATISM

1. Overview
2. The Legal Concept of the *Societas Civilis* and the Modern Sovereignty Concept in Their Ideological Context
3. The Struggle of the *Societas Civilis* Against Modern Sovereignty
4. Ideological Leitmotifs of Anti Absolutist Conservatism
5. Peculiarities of English Development from the Perspective of the Antagonism Between Traditional Legal Conception and the Modern Idea of Sovereignty

III. COUNTER-REVOLUTIONARY CONSERVATISM AND THE REFORMULATION OF THE CONCEPTION OF LAW IN THE *SOCIETAS CIVILIS* AFTER 1789

1. Overview
2. The Conservatives' Awareness of Continuity or the Revolution as the Continuation of Absolutism
3. Law, Sovereignty, and State Power in Conservative Thought After 1789
4. The Idea of *Societas Civilis* in the Struggle Against the Modern State

5. Conservatism and Liberalism

6. The ideological extrapolations of the monistic conception of state and society.

7. Conservative Critique of Capitalism and Culture

8. Conservatism, Its Intellectuals, and the Thought of the Enlightenment

IV. THE DISSOLUTION OF CONSERVATISM AND THE DISTRIBUTION OF ITS LEGACY

1. The Assimilation of the Nobility by Society and the Detachment of the Conservatives from the Ideal of the *societas civilis*

2. The Conservatives and Social Policy in the 19th Century

3. The Aestheticization and Reinterpretation of Conservatives motifs of Thought in Political Intellectual Movements

4. The Scattered Legacy of Conservatism

5. Final Remark

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CHAPTER ONE

I. THE CONCEPT OF CONSERVATISM

1. Conservatism in the Socio-Political and Intellectual Spectrum of Modernity

The fundamental classification of conservatism as a socio-political and ideological phenomenon within the broader spectrum of modernity implies two things: first, that it is not a historical or anthropological constant but rather a specific historical occurrence, bound to a particular epoch and location, which fades along with or even before the end of this epoch; and second, that it can best be understood not solely through its opposition to the French Revolution but through its confrontation with certain distinctive, and from a conservative perspective, revolutionary characteristics of modernity as a whole. Even if there is agreement on this dual thesis, broadly stated, little is gained substantively unless the defining features of the epoch in which conservatism took shape and ultimately dissolved are sharply delineated. Furthermore, the question of the socio-historical and intellectual origins of conservative thought must be addressed satisfactorily. Merely stating that certain positions coalesced during the confrontation with specific features of modernity into what was retrospectively called "conservatism" does not mean that these ideas arose *ex nihilo* or inevitably during that confrontation. In truth, the intensity of the struggle on the stage of history often obscures the socio-historical backdrop, creating the optical illusion that conservatism, whether as a rationalized socio-political stance or as an elemental structure of thought, is merely the inverse of revolutionary ideology or politics, and thus a derivative entity. It is precisely at this juncture that we must begin to identify the central thread of our analysis. However, it should be stated in advance that the otherwise commendable and seemingly dominant inclination to trace conservatism not just to its opposition to the French Revolution but also to its rejection of Enlightenment rationalism is insufficient to exhaust its historical and ideological content. For one, the time frame in question is far broader than is commonly assumed, and for another, such an approach imposes a myopic socio-historical perspective.¹ Conversely, attempts to trace the pre-revolutionary

¹ 1. Kaufmann (Konservative Partei, 137) already saw "the intellectual-historical origins of conservatism... in its opposition to the entire intellectual world of rationalism." For Mannheim, on the other hand, the reason for the emergence of conservatism as a conscious, "sense-oriented movement" was the fact that "the modern world had become dynamic" (Konservative Denken, 423). This implies somewhat more than merely deriving conservatism from the concrete event of 1789, although Mannheim tends to subsume conservative ideas before the French Revolution under the vague concepts of "traditionalism" or "proto-conservatism" (cf. also note 3). Valjavec most consistently

attempted to demonstrate that conservatism should "originally not be understood as a reaction to the French Revolution... but as a force against rational enlightenment and—though to a lesser degree—against the attacks of absolutism" (*Entstehung des Konservatismus*, 141; cf. *Entstehung der politischen Strömungen*, 5). Valjavec not only considers conservatism as a reaction against the Enlightenment but also treats every reaction against the Enlightenment as conservatism (cf. e.g., *Entstehung der politischen Strömungen*, 255ff.), which ultimately obscures the specifically conservative intellectual structure. Moreover, he remains unfamiliar with the socio- and intellectual-historical problems of earlier centuries. The same weaknesses characterize Greiffenhagen's work, which adopts and develops Valjavec's central thesis of conservatism as a reaction against Enlightenment and its rationalism. Hints that conservative approaches existed before the 18th century remain at the rather amateurish—and one must say—naïve mention of Donne's well-known poem about the "New Philosophy" and its supposedly destructive effect (*Dilemma*, 41ff). The central problem of sovereignty and its ideological background, as well as the structure of the ruling ideology of the *societas civilis* (cf. below, Chapter II, Section 1), elude Greiffenhagen as well as all the aforementioned researchers. His admittedly one-sided focus on intellectual history (*Dilemma*, 16), already rightly criticized by Gerstenberger (*Konservatismus in der Weimarer Republik*, 332), is not only incomplete in that the development of modern political theory is largely ignored, but it also leads him to attempt constructing a conservative theory merely by stringing together quotes from such vastly different authors as Möser and Gobineau. Greiffenhagen is aware that this approach may expose him to accusations of "historical carelessness," but this only worsens the matter for him. In contrast, Ribhegge rightly asserts that conservatism is not merely an ideological phenomenon but "a complex social process." Furthermore, he rightly regards it as a substantively defined and temporally delimited phenomenon; using the term beyond its historical boundaries would render it unusable (*Konservatismus*, 122, 123ff). However, Ribhegge himself makes this mistake when he refers to conservatism not only concerning the counter-revolutionary movement after 1789 (thus erroneously marking the start of conservatism), but also concerning the bourgeoisie after 1848 and even the non-revolutionary-minded working class of modern mass society. Aware that this contradicts his own demand for a "material definition" of conservatism (*Konservatismus*, 125), he resorts to a far-fetched use of cybernetic models, describing conservatism as a self-regulating control system that, thanks to ever-improving feedback mechanisms, can adapt to historical changes (*Konservatismus*, 126). However, this view leads to an ahistorical hypostatization of conservatism. It is also contradictory to place the beginning of conservatism in resistance to the thesis of the "malleability of society," as Ribhegge does, and then to speak of conservatism in modern mass society, which is characterized not least by the universal acceptance of that thesis. Among all significant studies of our subject, as far as I know, only Huntington questions the linkage of conservatism to a specific epoch. For him, conservatism is simply the legitimating ideology of any endangered social system, regardless of time and place; thus, the content of conservatism changes incessantly, and the formation of a conservative tradition becomes impossible (*Conservatism*, esp. 455, 468ff). Regardless of the fact that this view has no heuristic value, it can be refuted empirically by showing that from certain medieval authors to the last representatives of conservatism in the 19th century, there is a continuity of ideas and structures that must be considered a genuine intellectual tradition. Such continuity has existed in no other place or time. Incidentally, Huntington makes little effort to draw examples of conservative ideology from antiquity or the Orient, instead placing the "first phase" of conservatism in the 16th century.

socio-political entanglements of conservatism have often remained limited to elementary observations and, like the aforementioned tendencies, have remained tethered to the horizon of the 18th century.² In both cases, the early modern component of what would later be labeled conservative thought, and thus the full scope of the conservative phenomenon, has largely gone unnoticed. This oversight stems from an incomplete or insufficiently distinct conception of modernity, both in its socio-historical and intellectual dimensions. One of the primary objectives of this study is to highlight the early modern component against the backdrop of modernity's relevant ideological features in a strict sense.

The historical contingency of conservatism as a phenomenon is acknowledged even by those who assert its anthropological roots.³ However, these proponents

² 2. The depiction of 18th-century conservative political theory by Palmer (*Zeitalter*, 66f.) is very superficial, although the author, citing Valjavec, Egret, and Lefebvre, acknowledges the valuable insight that conservatism was not simply a reaction to the Revolution but rather an independent movement of the 18th century, in relation to which the Revolution itself must be seen as a reaction (35). Epstein loses himself in a boundless endeavor, although he meticulously evaluates many previously overlooked smaller texts, he often lags behind the conceptual and structural achievements already made in earlier research. While he follows those authors who have sought a historically viable definition of conservatism and accordingly understands it as the response to the challenge of Enlightenment and Revolution (*Ursprünge*, 17ff), he nevertheless comes dangerously close to a quasi-psychological-anthropological consideration of the problem by introducing three distinct ideal types of the conservative character (defender of the status quo, reform conservative, reactionary). However, he fails to account for the historically documented and indeed frequent case in which the same individual, following tactical and polemical necessities—or simply the supreme command of power—alternates between or even simultaneously assumes all three roles.

³ 3. Cecile assumes a "natural conservatism" as an underlying factor, but he considers the French Revolution to be the triggering event for conservative theory and politics in the full sense, despite conservative tendencies during the Reformation and other earlier periods (*Conservatism*, esp. 24f., 39). In a more anthropological than historical treatise, Romein argued that since the Renaissance and the Reformation, but especially since the 18th century, European nations have detached themselves from the "universal human pattern" and embarked on a disastrous path; conservatism, he claimed, represents a longing for lost naturalness and humanity (*Über den Konserv.*, esp. 229, 237). However, Romein fails to explain why only certain people, with specific interests and convictions, experienced this longing and how it was possible for so many to vehemently deny and suppress their own nature. Mannheim explicitly returns to Cecile's category of natural conservatism to support the distinction between merely "reactive" traditionalism and consciously "meaning-oriented" conservatism (*Kons. Denken*, 412f.). Despite its highly problematic nature (cf. Valjavec, *Entst. d. Kons.*, 141), this distinction is made with the correct intention of understanding conservatism not as a psychological but as a historical category. However, it must be questioned why traditionalism should be considered a necessary precursor to conservatism if Mannheim's observation holds true that there are conservatives who do not behave traditionally and vice versa (*Kons. Denken*, 413). Incidentally, the distinction between traditionalism and conservatism, typically attributed to Mannheim, originates from Rohden,

have not succeeded (nor, as far as I know, even attempted) to offer a coherent historical interpretation grounded in the alleged natural predisposition of humanity toward preserving the status quo. Despite the glaring gaps in the presentation of the psychological-anthropological theory of conservatism, we must briefly address it here, for it is essential to counteract the influence of conservative ideology on the scientific analysis of conservatism from the outset. It is noteworthy how central tropes of conservative self-understanding and self-presentation have found their way into interpretations of conservatism, even among non-conservatives. For instance, the almost universally asserted thesis that conservatism emerged in reaction to the French Revolution—or even earlier in response to the Enlightenment—reflects, albeit indirectly and distortedly, the conservative notion of the "conservative man." This figure, as conservatives would have it, never seeks conflict or initiates disputes but lives in harmony with the natural or divine imperative of preserving tradition. Only the violation of this imperative by others triggers a response.⁴ However, it is not immediately clear why this should be a specific characteristic of conservative behavior, even if we disregard the associated value judgments. No person reacts antagonistically to external stimuli as long as their self-preservation or pursuit of power faces no obstacles; even revolutionaries present themselves as peaceful when their desires are met without resistance. Thus, it is not some predetermined psychological or anthropological disposition at work here, but rather the relative position—i.e., the specific power dynamics of the individuals involved—that determines behavior. Only from this perspective can one understand why a victorious revolutionary might overnight transform into a staunch defender of the status quo, or why a defeated conservative, or one anticipating defeat, might flirt with the use of force or openly resort to it. There is no reason to assume that this shift in political behavior requires greater self-restraint from conservative groups than from other social forces. Historical examples of feudal resistance rights, tyrannicide, rebellions, and dictatorship—all of which we will examine in due course—demonstrate that such forms of conservative activism are neither historically unsubstantiated nor atypical.

Therefore, conservatism and activism do not form an insurmountable dichotomy when one focuses on historical realities rather than accepting post hoc self-representations by conservatives at face value. The idealized image of the conservative as a contemplative guardian of tradition and higher forces, supposedly shaping their behavior accordingly, has scarcely existed in any significant historical measure. Long before they were threatened by revolution, leading members of the upper classes within the corporatist society lived highly

where it serves an apologetic purpose: "The healthy human being is naturally conservative... This type of conservatism is naturally silent," even though it represents the germ of theoretical conservatism. "Tradition can only become a conscious value when its existence is threatened, as occurred through rationalism and revolution" (*Deutsch. u. franz. Konserv.*, 94, 96).

⁴ 4. Cf. the passages by Rohden cited in the previous note.

active lives, primarily aimed at improving their power and acquiring wealth or office. If these classes refrained from initiating revolutions in the later radical and social sense of the term, it was not because they were psychologically incapable of doing so, but simply because they could not and would not overthrow themselves. This banality underscores the flaw in the psychological-anthropological theory of conservatism: it fails to demonstrate that those defending the status quo do so exclusively or primarily because they are psychologically incapable of acting otherwise than peacefully or benevolently. Such a view would, incidentally, imply the absurdity that rulers resisting revolutionary upheavals might be less suited to the harsh necessities of governance than the governed or the insurgents. Socio-historical evidence shows that most of the nobles, for example, who opposed revolutionary rationalism while preaching quiet devotion to tradition and the eternal embrace of God and nature, displayed a very pronounced and practically undeniable sense of superiority over their dependents—superiority they viewed as legitimizing their dominion. Therefore, the psychological-anthropological interpretation of conservatism can generally be countered by arguing that neither the drive to preserve nor the drive to overthrow characterizes human behavior as a whole; instead, the overarching motive is self-preservation or the enhancement of one's power, for which either preservation or overthrow may serve as means. Moreover, the assumption of a conservative trait inherent in human nature adds no value to the analysis or understanding of historical phenomena. Only concepts that point to a specific attitude and behavior—and do so concretely and independently of whether the agent is explicitly named—are fruitful in this context. The psychological-anthropological concept of conservatism, however, fails this test and becomes so broad in its application that it encompasses everything from communist leaders advocating for a rigidly planned heavy industry to American politicians defending laissez-faire economics against domestic "liberals," thereby opening the door to utter conceptual confusion.

A proper understanding of the conservative phenomenon requires addressing another widespread and grave misconception, which likewise stems from conservative self-representation and has infiltrated academic discourse. This is the notion that conservatives inherently despise theoretical constructs and only resort to theory in response to their opponents' theoretical assaults.⁵ Such a view reinforces the idealized image of conservatives as naturally inclined to live confidently within tradition, without need for theoretical reflection or planning. But this idealized portrayal is far removed from historical reality. This misconception falsely suggests that ideas and ideologies—as systematic intellectual constructs or as tools—were alien to the pre-revolutionary *societas civilis*. However, this was never the case, as the maintenance of power within such a

⁵ 5. In place of many conservatives who share this view, see Schoeps, *Konservative Erneuerung*, 22. Schoeps also adopts the anthropological interpretation of conservatism and therefore speaks of the "human substance," etc. (20).

society required legitimacy, much like any other governance, especially since the rise of advanced civilizations. Furthermore, conflicts within the ruling upper classes frequently necessitated specific ideological justifications, even if these remained within the broader ideological framework of shared fundamental beliefs. The theological and political systems of thought developed during such conflicts in the medieval *societas civilis* demonstrate a level of intellectual sophistication and systematic comprehensiveness comparable to those of analogous constructs in modernity. The ideological core, along with many central ideas of the governance and legitimization ideologies of the *societas civilis*, was carried over into conservative theory as it was articulated in response to the Enlightenment and the Revolution. These ideas did not merely play a peripheral role but became the ideological axis around which conservative thought revolved. The demonstration of this unbroken continuity, which this investigation seeks to provide, inherently refutes the thesis of the reactive, quasi-reluctant character of conservative theory. There is a significant difference between the claim that conservative theory emerged as a defensive response to the Enlightenment or the Revolution, and the claim that conservatives of the 18th and 19th centuries drew upon the pre-existing intellectual resources of the *societas civilis* and reformulated them in light of the polemical necessities of their time. If this modernization of traditional ideas occurred as a reaction to the ideological positions of an adversary, it must be noted that the natural-law ideas of revolutionary rationalism were themselves a reaction to the governance ideology of the *societas civilis*. From the outset, revolutionary rationalism constituted a deliberate and strategic reversal of the latter, making it in this sense more fundamentally reactive than the modernized version of conservatism.

On the other hand, the fact that the enemies of the *societas civilis* or the social dominance of the nobility, particularly after the 17th century, developed an especially vigorous ideological activity was not due to any particular anthropological disposition, but rather to their concrete situation. In this context, the lack of substantial social power had to be compensated for by asserting themselves on the front of intellectual efforts. The substantial production of conservative works, which soon followed, demonstrated that the theoretical aptitude of conservatives was by no means inferior to that of their enemies, as they thoroughly addressed all the pressing issues of the time and even arrived at insights that proved to be lasting contributions to the nascent science of society. Their declared aversion to the abstractions of theoretical thought had nothing to do with their actual theoretical aptitude or their practical use of the weapons provided by theory. This aversion was purely polemical, stemming from the aforementioned special role of theory in the arsenal of their adversaries. In other words, the fight against abstract theorizing should neither be taken at face value nor viewed as an expression of a fixed, psychologically or anthropologically rooted trait of the "conservative person." Instead, it should be understood in its concrete function—as a highly symbolic act that signals and seals enmity. Had the revolutionaries

appeared under the banner of hostility to theory, the conservatives would have had to defend reason and theory—⁶they did, after all, defend culture and the natural character of society whenever revolutionary ideology donned the guise of Rousseauism or similar frameworks. The conservatives' compelled hostility to theory, precisely because it was polemical rather than literal, had to be convincingly articulated for its public impact and therefore assumed a theoretical form. The idealized depiction of a "healthy" and "organic" society, which allegedly did not arise from abstract theory and had no need for it, could only be accomplished through theoretical means.

This ambivalence (which is also evident in the adherence to rational argumentation while simultaneously rejecting rationalism and denying the supremacy of reason in humans)⁷ can only be seen as contradictory or condemned if one overlooks the polemical nature of the debate, takes the explanations of the participants at face value, and forgets that the phenomenon has its intellectual-historical parallels (e.g., theological rational argumentation to demonstrate the limits of human knowledge and the necessity of revelation—or the sophisticated syllogisms of Enlightenment emotional philosophy or later philosophies of life opposing the intellect and advocating for the elemental power of existentially pulsating emotion, etc.). It is therefore not rooted in any specific hostility toward or deficiency in theory but rather in the complex dialectic of unconscious relationships between "rationalism" and "irrationalism."⁸ Equally superficial is the view that the supposedly innate hostility of conservatism toward theory automatically manifests itself in its (from the perspective of conservative self-understanding, admittedly not regrettable) inability to develop a systematic and unified theory. However, one cannot deny the systematic character of conservative theory if it is understood (as it must be) as stemming from certain general premises shared by all conservatives, from which positions on individual theoretical questions are derived or to which these positions can be traced back. The lack of uniformity and the almost overwhelming diversity in specifics depending on time and place, in turn, is not a peculiarity of conservative theory but a normal accompaniment of the historical life of all major political—and not only political—ideologies. To anyone familiar with the international history of liberalism, democracy, or socialism, the enormous variety of their forms from country to country, and one might almost say from decade to decade, is no secret.

⁶ 6. These statements only become comprehensible within the framework of a general theory on the polemical character and the corresponding symbolic functions of the "intellect"; see Kondylis, *Macht und Entscheidung*, Chapter III.

⁷ 7. This statement is made by Rohden with regard to the French traditionalists around 1800 (*Deutsch. u. franz. Konserv.*, 128). Greiffenhagen generalizes it and places it at the center of his considerations on the dilemma of conservatism.

⁸ 8. For this highly important point, see the work cited in footnote 6 as well as Kondylis, *Aufklärung*, especially pp. 36 ff.

Yet, certain fundamental assumptions and attitudes remain recognizable at all times, which justify a unified understanding and presentation of the ideological phenomenon in question. It is the same with conservatism, but this can only become evident when its historical substance is precisely defined, thereby putting an end to the arbitrary use of the term, at least in scholarly investigations.

Other topoi of conservative self-understanding, no less problematic in their influence on scholarly discussions, have also found their way into these discussions, often with harmful effects. These include those with which conservatives themselves associate particular merits of their own attitude. Thus, it is necessary to closely examine some central keywords of conservative vocabulary to uncover their decisive polemical aspect and thereby clarify their historical contingency. The conservatives' flirtation with a proclaimed disdain for theory, which essentially claims intellectual superiority for itself, is closely linked to their declared preference for the "empirically given" and the "concrete."⁹ Quite apart from the fact that siding with empiricism is not itself an empirical judgment, severe epistemological objections must be raised against the conservative prioritization of the "concrete" as opposed to the "abstract." First, it must be pointed out that the opposition between the abstract and the concrete is itself an abstraction. Any grasp of the concrete and any definition of what is to be regarded as concrete always takes place within a general worldview or ideological framework, which alone provides the criteria for determining what is abstract or concrete. This worldview itself never arises from the mere summation of concrete particulars or individual forms of the concrete but precisely through abstraction from these, even though it often seeks its positive or negative affirmation and illustration in the "concrete." In this quest, it defines or even invents the "concrete," and in this sense, ideological abstraction is not the negation of the concrete but rather its very precondition.¹⁰ Ultimately, abstract and concrete blend indistinguishably into one another. If this is the case, the critical question becomes: who decides what is to be regarded as abstract and what as concrete? The decision regarding this, particularly in political matters, is a function of power needs and not of any overarching, perspective-free conception of "reality." This is confirmed by the fact that what conservatives have held up as the concrete has demonstrably been nothing more than an element of a construct aimed at legitimizing and defending specific interests. If siding with the concrete has any allure at all, the necessary subsequent determination of its content soon reveals the deeper wishes and goals of those claiming to be "enemies of all

⁹ 9. Instead of citing many others, see Schoeps, *Konservative Erneuerung*, p. 22; Wilson, *Anatomy*, pp. 341ff. This topos is considered Burke's great legacy, but it was established much earlier and used in a polemical context (see Chapter II, Section 4d).

¹⁰ 10. The factual subordination of the "concrete" to the general worldview is perhaps not entirely unintended and is reflected in Marxist-Leninist terminology. According to this, an analysis is deemed concrete if it does not isolate things but considers them in their interrelations and totality, or from the standpoint of totality.

abstraction."

The conservative principle that "healthy" politics should start from existing real conditions and adapt to them as much as possible is fundamentally as empty (in a logical sense) and polemical (functionally speaking) as the often-associated advocacy for empiricism and the concrete. Every politics—revolutionary no less than conservative—must have an accurate understanding of the given conditions and orient itself around that understanding to be successful. In this basic sense, political realism is not an exclusive monopoly of conservatives (otherwise, conservatives would never lose a significant political battle) but rather a self-evident quality of any politically adept individual or collective, regardless of their ideological direction. Similarly, illusionists and reckless actors can be found in all parties. When conservatives proclaim this principle, they do not mean it in its nominal sense. Instead, they implicitly imbue it with certain normative implications and, through this indirect approach, attempt to derive from the (political) necessity of realistically weighing existing conditions and practical possibilities the (moral) obligation to respect the given reality. In this way, they seek to attribute the merit of sober realism exclusively to a specific politics, namely their own. The decisive question in politics, however, is not whether real conditions should be considered (every practical and serious politics begins with this consideration) but rather: for what purpose should they be considered? Conservatives commit the logical error (which can be ideologically advantageous) of conflating their own purpose-driven views with realism in general. To the extent that there exists a conservative realism or realism in the service of conservative interests, it is not the product of some natural conservative disposition, as conservatives like to present it, but rather the negative consequence of external compulsion. The "wise" adaptation to (new) conditions, of which conservatives sometimes boast so proudly, typically occurs under the pressure of their opponents. These opponents, at least in part, managed to push conservatives into a defensive or accommodating stance precisely because conservatives initially lacked the wisdom of realistic adaptation that they later claim—if they survive. Incidentally, one unintended yet common outcome of revolutions is that (some or many) conservatives "discover" their heart for "true" progress and feel the need to account for the "new situation" or to recall the dynamic organic growth (and not merely the static organic constitution) of society and history.

These examples illustrate that behind conservative topoi are not self-evident and unassailable truths but questions of interpretation that are, by nature, questions of power. This applies no less to those conservative fundamental concepts that appear to derive their content directly from history itself. Among these is "tradition." Yet, as a concept, "tradition" would only be self-evident (albeit at the cost of being colorless and ideologically irrelevant) if it encompassed everything historically given without exception or selection. However, nothing in history occurs without being accompanied or followed by its opposite—neither obedience without rebellion, nor continuity without radical breaks, nor orthodoxy

and blessing without heresy and curses. All this is historically attested, and precisely because history as a whole encompasses every conceivable manifestation, antinomy, and possibility of the human condition, traditions can only be constructed selectively, with the act of selection being the prerogative of the (current or sometimes even aspiring) ruler.¹¹ This is why “tradition” does not necessarily mean what conservatives wish it to signify; even fairly straightforward and continuous “revolutionary” or “democratic” traditions can be cobbled together when this appears expedient to a dominant group in society. Similarly, it can be shown that the specifically conservative “tradition” is a construct, regardless of whether the phenomena to which it refers are historically attested and authentic or not. In the ideal case, the falsification already lies in the unavoidable generalization and absolutization of partial aspects of historical events.

Institutional orders arise and succeed one another in history just as traditions do. Thus, the concept of order itself is just as incapable of justifying conservatism as the concept of tradition. For conservatives, who present themselves as the true guardians of institutional order indispensable for social life, it has always been a bitter irony that their successful adversaries, sooner or later, establish a new institutional order that functions more or less effectively. This new order, however, is not recognized by conservatives as the “true” or “natural” order; instead, its very existence is interpreted away. Even the enemies of conservatism, in founding (or attempting to found) a stable institutional order, effectively adopt the conservative position on this critical issue.¹² From the historically documented ability of non-conservatives to create institutional orders, one can also draw the opposite conclusion: that it is indeed possible to live without conservatism and conservatives. Everything conservatives associate with the concept of order thrives, if not predominantly, then at least also, in their absence. For their adversaries, in fighting to solidify their own dominance, ensure the preservation of law, hierarchy (inequality), and property (secured either legally or factually)—albeit under different symbols and with varying content. This must appear almost incredible to conservatives: that another, specifically their own adversary, could assume the role of creating and maintaining the necessary order they claim to embody, and do so even after conservatives themselves have been eliminated or perhaps even annihilated. The issue, therefore, is not about order as such, as conservatives like to assume and claim, but rather about the specific question of interpretation and power: who embodies the order, who dictates its rules, and who serves as its guardian? The identification of a specific order with order itself—logically questionable yet ideologically indispensable—becomes evident even when the concept of order extends far beyond the socio-political realm to encompass

¹¹ 11. Very instructive in this regard is the volume *The Invention of Tradition*, edited by Hobsbawm and Ranger.

¹² 12. See, for example, Merkatz, *Kons. Funktion*, p. 72. On order as a conservative core value, see, for instance, Kaltenbrunner, *Der schwierige Konserv.*, p. 36.

anthropological or even cosmic dimensions. Conservatives' declared aversion to theory has hardly prevented them from indulging in constructs about eternal world laws, eternal world order, and the derived determinations of humanity. However, precisely because these constructs are ultimately questions of interpretation, the enemies of conservatism have not hesitated to appropriate terms such as "eternal order" and imbue them with their preferred normative content. Conservatives and revolutionaries alike proclaim allegiance to natural law, although they associate fundamentally different ideas with it. This shared commitment presents both with similar yet reversed theoretical difficulties: just as conservatives have not been able to provide a convincing explanation for how revolutionaries managed to overturn an entire "natural" or even "divine" order and thereby prove themselves stronger than this order, revolutionary natural law theorists have likewise failed to offer a compelling answer to how the dictates of nature could be so enduringly violated through oppression, violence, or alienation.

What has been stated so far does not aim to "refute" conservatism from the perspective of a competing ideology, especially as, in our view, it has long been dead. However, without fully reducing conservative topoi to their polemical content and function, the path to a historical understanding of the phenomenon of conservatism cannot be cleared. Conservatism, in other words, only becomes visible as a historical phenomenon bound to specific times and places when the elements in its self-understanding, which appear as ontological or anthropological categories, are grasped and presented in their concrete power-political function. As scholars, we must learn to discuss conservatism as a more or less coherent entity characterized by specific features in the history of politics and thought, just as we now discuss the "Reformation" or the "Enlightenment." In the strict historical sense, conservatism can therefore be defined as the ideological and socio-political movement aimed at preserving the *societas civilis* and the dominance of its upper classes. Regarding its ideological aspect, conservatism derives the core of its theories from the theological and socio-philosophical thought of the *societas civilis* and thus precedes modern and Enlightenment rationalism in time, although the confrontation with the latter represents an important—and so far the best, if not the only well-known—stage in its development. Socio-politically, conservatism signifies the resistance of the (upper classes of the) *societas civilis* to its dissolution, which initially appeared on the historical stage in the form of the modern separation of state and society and was later completed by the displacement of the primacy of agriculture by the primacy of industry. The conclusion of this protracted and complex process also marks the end of conservatism; the historical content of conservatism is thus exhausted in the worldviews, social-philosophical, or anthropological positions supported by this process, as well as in the concrete socio-political activities of the ruling upper classes of the *societas civilis* concerning the same. Outside this socio-historical and intellectual framework, conservatism can only be spoken of metaphorically or with polemical or apologetic intent. Alongside liberalism and (radical or social) democracy, conservatism belongs to the

major concepts and movements of the long period characterized by the aforementioned process. However, while conservatism was practically over once the separation of state and society (i.e., between the modern centralized and uniformly administered state and the bourgeois-dominated, rapidly industrializing society) had fully established itself, liberalism and democracy approach their end or become meaningless as political concepts as soon as the separation of state and society is once again abolished—not because of a return to the *societas civilis*, but due to the triumph of the state (i.e., those social groups that view the state as their primary instrument of power or protector of their interests) over society (dominated by the bourgeoisie). The inflationary and highly confused use of all three terms in our times, such that they often merge into one another and lose their distinctiveness, is an unmistakable sign of the partially approaching and partially already realized end of the era from whose socio-political and intellectual life they derived their content, in part or entirely.

We have already explained why conservative thought cannot be interpreted as merely a reaction against the French Revolution or Enlightenment rationalism. When conservatives opposed the Enlightenment, it was because they were more or less clear about what they should counterpose to the Enlightenment. And they were clear about this because they could theoretically rely on the traditional, albeit modernized, worldview and social-philosophical thought of the *societas civilis*. Not only did anti-Enlightenment conservatism have its prehistory, but the Enlightenment itself was no new beginning. Rather, it was a phase in the development of the already mature modern rationalism, which in the 18th century merely brought certain tendencies originally inherent in it to full fruition.¹³ The statement that the disputes of the 18th century had their prehistory does not mean, however, that the matter is resolved if we begin the history of conservatism with the reaction against the first great generation of typical representatives of modern rationalism—the generation of Galileo, Descartes, and Hobbes. Such an approach would neglect the socio-historical and theoretical side of the problem, which in this case would not only be a methodological error but a veritable distortion. For it is precisely the prioritization of the socio-historical and theoretical aspects that allows for accurate dating, bearing in mind that conservatism did not initially articulate itself in relation to cosmological or ontological questions, but rather on the field of socio-political thought and action, with the direct involvement of those directly affected by certain social developments. More specifically, the ideas of the *societas civilis* came into a conscious structural conflict with the emerging modern thought when the traditional medieval conception of law clashed with the modern theory of sovereignty, which gradually took shape during the 16th century. This initiated a movement that inevitably had to draw ever wider areas of socio-political and intellectual life into its wake, as both the legal conception of the *societas civilis* and

¹³ 13. This thesis is extensively substantiated in Kondylis, *Aufklärung*, particularly pp. 42 ff. and 170 ff.

the modern theory of sovereignty were not marginal but were linked to comprehensive worldview options, even if this was not fully recognized from the beginning. Demonstrating this connection, as we aim to do below, will allow us to do full justice to the intellectual breadth of the problem without neglecting or disregarding its socio-political dimension or origin. Only in light of this demonstration does it become clear in what specific sense conservatism opposed modern rationalism.

If the constitutive significance of the rejection of modern theories and practices of sovereignty for conservatism is recognized, then naturally, its history must begin with this rejection and place it, along with all its implications, at the center of inquiry. The struggle against absolutism and the struggle against the liberal and (from a conservative perspective, essentially identical to the liberal) democratic revolution constitute the two great phases of this history. These phases remain unified and coherent because the arguments presented and the goals pursued in both phases were fundamentally identical. This continuity was not accidental. Decades before Tocqueville, conservatives were aware of the intrinsic connection between absolutism and revolution. Long before the latter's dramatic emergence at the end of the 18th century, they accused the former of dissolving the *societas civilis*—abolishing traditional legal conceptions, separating state and society as well as morality (religion) and politics, or private and public spheres. The absolutist state displaced the collective (*oikos*) and the associated forms of rule and life in favor of the individual as the ultimate social unit, thereby replacing tradition with historically rootless reason. However, absolutism initiated the dissolution of the *societas civilis* precisely in its capacity as the first historical representative of modern sovereignty theory and practice, even though its own social nature left it, in many respects, halfway in its development. The same applies to the revolution—not only in its democratic but also in its liberal variant. While liberalism, in its endeavor to oppose absolutist claims, had to raise natural law and political objections to the radical version of modern sovereignty theory and practice, it could itself only flourish on the foundation of modern statehood, which arose as a result of, and thanks to, the dissolution of the *societas civilis*. The continuity in the forces that partially simultaneously and partially sequentially dismantled the *societas civilis* corresponds to the continuity of conservative argumentation. This argumentation revolves around the aforementioned issues and their ideological implications or presuppositions. It does not constitute merely a reaction but rather adapts the inherited ideas of the *societas civilis* to new polemical needs. Conservative thought owes its continuity not simply to the necessity of defending against the continuous activity of successive, even opposing, enemies of the *societas civilis*. Instead, it stems from the long intellectual and socio-political tradition from which conservative foundational ideas emerged. This tradition, as well as the fact that conservative thought from the 16th century onwards—when it first consciously opposed modern theories and practices of sovereignty—continued to revolve around certain themes and repeat the same motifs in countless variations until its dissolution in

the 19th century, can both be demonstrated. Without a doubt, conservative thought underwent a significant enrichment around 1800, the most notable aspects of which were cultural criticism and the theory of dictatorship. The former arose as a response to the emerging industrial revolution and the intellectually influential political economy; the latter attempted to counter the revolution using the instruments of power derived from the very modern state that was fundamentally rejected. However, even the new content scarcely modified the inherited ideological structure; instead, it was integrated into it as an additional argument or further affirmation. There is evidence that some conservatives around 1800 were aware of the origins of their own ideas in ancient sources and that many were conscious of the long history of the dissolution of the *societas civilis* and the corresponding long prehistory of their party. Modern researchers, however, rarely arrive at similar insights and, when they do, only inadequately, because they are insufficiently familiar with the intellectual heritage of the *societas civilis*. Thus, they fail to recognize the intricate lines of argumentation in scholastic theories of society and contract behind the conservative assertions regarding the naturalness of society, which were contrasted with liberal individualism in the 18th and 19th centuries. The difference in language and terminology—despite the structural identity of thought—actually constitutes the element that distinguishes earlier conservatism from the anti-Enlightenment and anti-revolutionary conservatism of later periods. The latter appears much more modern in terms of linguistic and formal aspects, which is why it is more easily recognized by those who are only familiar with the language of modern political and social theory that emerged after the 18th century. Conservatives of the time around and after 1800, under the pressure of the Enlightenment—whose conscious or unconscious disciples they often were—and considering the public impact of their words and writings, distanced themselves from the traditional, largely scholastic vocabulary and conceptual arsenal of the *societas civilis* to adopt the new, secular, and more direct language of their enemies. This contrast between form and content in later conservatism indeed marks a sign of decadence and an omen of the impending final decline of the *societas civilis*, even though it arose from an attempt at modernization. Beyond this contrast, however, research must focus on the persistence of intellectual structures to track conservative thought in its true continuity and development over historical time.

If we aim to avoid a purely intellectual-historical analysis of conservatism—which would be misleading from the outset—and instead place the socio-political aspect at the center, it is not sufficient to derive the general ideological positions of conservatism from its social-theoretical foundations (which would, in essence, mean remaining confined to intellectual history). Rather, the historical fortunes of the upper classes must always be kept in view—those who, throughout the entire period indicated above, were the natural bearers of conservative ideology and social theory. The history of conservatism largely overlaps with the history of the nobility, which clearly implies that the decline of

the nobility as a traditionally (in the Weberian sense) ruling class also necessarily brought about the end of socially relevant and conceptually distinct conservatism. The two major phases in the history of conservatism mentioned earlier correspond to the two great episodes in the modern history of the nobility: namely, its struggles—both sequential and simultaneous—against the two forces that ultimately led to its downfall, the modern state on one side and modern industry on the other. The nobility (remaining at this abstraction for the time being) rationalized these existential struggles through constructs of thought that catered to both long-term and short-term polemical-ideological needs, in which ideological and doctrinal elements were mixed with tactical and pragmatic considerations in varying proportions. This is a point of great importance for understanding the character and history of conservatism concretely. The ambiguities and contradictions that manifest themselves repeatedly here can only be understood concerning the specific situation of the nobility, which varied depending on time and place. In general, it must be noted that despite their fundamental opposition to absolutism and the modern state, the nobility reconciled themselves with these entities to the extent they believed they could exploit them for their own purposes or against adversaries from below. Their belief was often reinforced by the fact that they occupied key positions in the young state apparatus, which had only partially emancipated itself from the essentially persistent *societas civilis*. Similarly, the nobility engaged—albeit within specific and varying limits across countries and eras—in economic activities that, over time, undermined the *societas civilis* as a whole, as long as these activities served their immediate interests. The inevitable ambiguity of the nobility's relationship to the modern state and modern economy left deep marks on conservative thought, particularly in its later phases, so that any meaningful reconstruction of conservatism must consider these socio-historical factors. This entanglement of conservative intellectual constructs with these factors, incidentally, demonstrates their concrete historicity and undermines anthropological and similar generalizations.

This is, broadly speaking, the socio-historical and intellectual framework within which this investigation will proceed. Before delving into the specifics, a brief methodological reflection on the usefulness and limits of the conceptual-historical approach must be offered. It is well known that the term “conservatism,” in the sense familiar to us, only emerged and became widespread in the early decades of the 19th century. Yet, as our analysis suggests, the conservative intellectual framework is centuries older and began dissolving precisely at the time the term identifying it emerged.¹⁴ If this is indeed the case, then a tension arises between the genetic and structural analysis grounded in socio-historical and intellectual evidence, and the approach that focuses exclusively on the history of the concept itself. The latter must necessarily remain superficial if it avoids or treats as optional the genetic and structural analysis mentioned above,

¹⁴ 14. Regarding conceptual history in general, see Vierhaus, *Konservativ-Konservatismus*.

effectively conflating the emergence of the phenomenon with the emergence of the term. This is problematic because a mere word can evolve into a historically significant concept when tied to a concurrently emerging social or intellectual structure, but a long-existing structure can also only be given a definitive conceptual designation retrospectively. In the first case, the conceptual-historical and genetic-structural dimensions align; in the second, they do not. A concept can thus be an indicator of a new development, but it can also serve as the final *summa summarum* or even as the epitaph of a process that has, for all intents and purposes, already concluded.¹⁵ If conceptual history fails to recognize this distinction and insists on making the registration of a new term the sole criterion for dating the beginning of a historical development, it isolates itself from the reality of historical continuity and devolves into linguistic idealism or historical linguistics. In the case of conservatism, a one-sided focus on the history of the concept leads doubly astray. For here, the phenomenon (as the concrete activity of specific historical agents as well as an intellectual structure) existed long before the term, and the term itself persisted—and even thrived—long after the phenomenon it originally described had effectively vanished. This point will become clearer in the subsequent analysis of the contemporary usage of the term “conservatism.”

2. “Conservatism” as a Contemporary Political Catchword

Our view that conservatism is nothing more than a clearly delineated, precisely identifiable, and long-concluded socio-historical and intellectual phenomenon tied to the transition from the *societas civilis* to the dualism of state and society can find confirmation in the observation that those who today call themselves “conservative” (or are so labeled) have little in common with those who originally bore that name. They fill the old conservative clichés—when these are still used—with essentially new content. Hardly any contemporary “conservative” seeks to reverse the fundamental separation of state and society (quite the opposite is true). Few question equality before the law or “human rights” (far from it), and almost none would consider undoing the boundaries established during the struggle against the *societas civilis* between private and public, or legality and morality. Additionally, the relationships between individual and collective, or issues like the freedom of intellectual creativity, are typically understood very differently by today’s “conservatives” than by their so-called predecessors. If this is the case, then scholarly research is not primarily tasked with explaining the persistence and continuity of conservatism as a concrete historical phenomenon. Instead, it must clarify why the concept of conservatism is used at all today—what

¹⁵ 15. Let us recall Bruno Bauer's apt, though not universally valid, statement: "Historical categories usually become the catchword of individual parties only after the matter they designate has long since disappeared." (*Der christliche Staat und unsere Zeit* [1841] = *Feldzüge*, p. 7).

polemical and ideological needs drive its usage. It should be noted in advance that the use of the term “conservatism” by contemporary socio-political movements, which have little to do with conservatism as a historical phenomenon—or even stand in opposition to it—further obscures its essence. Into conservatism as a historical phenomenon are projected (much) later positions and desires that are not actually linked to it but to the (likewise much later) use of the term “conservatism.” The fact that today’s “conservatives,” who primarily fight against revolutionary “totalitarianism,” transform the counter-revolutionaries of around 1800 into representatives of their own conception of freedom—and sometimes even into blasé and skeptical late liberals—undoubtedly places significant obstacles in the way of understanding the concrete historicity of the conservative phenomenon.

Let us dive directly into the matter. Aside from a few historical and politically negligible fossils from past times, those who today call themselves “conservatives” are, in fact, liberals who reject the drift (of one faction) of liberalism into positions of social democracy under the conditions of the industrial mass society, varying in degree and pace. This drift visibly began during the last decades of the 19th century—incidentally, as we shall later see, the core motifs of contemporary “conservative” thought originate from this time—and since then, it has severely tested the inner life of many liberal parties. A comprehensive account of this process would require a substantial recap of the entire history of liberalism from the perspective of this central aspect. Here, we must content ourselves with pointing out a critical point. The ideological (and often political) merging of one wing of liberalism with social democracy does not occur as an open break with the liberal tradition but rather through a reinterpretation of liberal core concepts. Thus, the individual remains the guiding principle. However, while classical liberalism primarily advocated for the inviolability of the rights and property of the individual, often with an implicit or explicit focus on the already privileged individual, socially-oriented liberalism directs its attention to the underprivileged. It interprets the absolute value or dignity of the individual to mean that the community is obligated to prevent its suffering. In other words, freedom as a formal right is no longer seen as a sufficient social foundation for individualism, although it remains indispensable and is still nominally defended against any form of collectivism. However, formal rights are now to be materially secured, which builds the decisive bridge to social democracy. After all, even in its Marxist version, social democracy initially claimed not to abolish the formal rights propagated by liberalism but to fill them with material content. And since the modern bureaucratic welfare, administrative, and support state is practically the only possible guarantor of the material rights of individuals, social liberalism—if we may use this term for clarity—arrives, precisely based on liberal-individualist premises, at the demand for more state intervention or more egalitarian mass democracy. In the process, platitudes of the liberal tradition and slogans from the heroic era of 19th-century liberalism, which already have a “progressive” tone, are reinterpreted according to these ideas. At this point, however, the paths of social

liberals and classical liberals diverge. The latter see in material rights the end of formal ones (as well as the end of the social distinctions supported or facilitated by this formality) and, at least partially, find themselves politically at odds with the welfare state and mass society. They cannot accept the inevitable dissolution of the traditional, style-conscious bourgeois lifestyle. Under these circumstances, two significant points of contact emerge between contemporary classical liberals and the counter-revolutionary conservatives of the 19th century—although the latter's teachings are taken only at their nominal value and divorced from their concrete historical context. First, the warnings of the conservatives of that time are recalled: consistent liberalism must inevitably give birth to egalitarian and tyrannical democracy from its own womb, as liberalism and democracy are originally kindred in nature. Second, there is a renewed connection to the originally conservative cultural critique, which sounds equally prophetic within the chaotic pandemonium of democratic mass society.

Now, it would be a mistake to believe that this relatively free recollection by classical liberals of genuinely conservative intellectual motifs proves the unbroken and straightforward continuation of conservatism, at least during the 19th and 20th centuries. For the contemporary usage of the term, it is not the socio- or intellectual-historical continuity of true, historical conservatism that is responsible, but rather the transformation or division of liberalism itself. This transformation created the atmosphere that allowed for a new utilization of certain conservative ideas, now detached from their historical context. It can be demonstrated that the modern critique of the egalitarian mass society and the welfare or social state did not originate from conservatives *stricto sensu*, who, incidentally, were unfamiliar with these phenomena. Instead, it was developed by classical liberals. Thus, those contemporary “conservatives” who emerge in the name of this critique and renew it are, in reality, drawing upon genuinely liberal ideas—whether consciously or not. Setting aside the obligatory reference to Tocqueville, a study of the writings by Victorian critics of the democratic-leaning liberalism published in the last third of the 19th century—such as those by J. Stephen, Lord Acton, H. Maine, and W. Lecky—would be highly instructive. These writings were, for instance, a direct response to theoretical attempts at the time, such as those by Green and Bradlaugh, to expand liberalism in the tradition of J. S. Mill into an optimistic, activist policy of unlimited progress centered on the idea of the welfare state, which would theoretically justify interventions into all spheres of society to protect and ensure the well-being of all individuals. The aforementioned authors resisted this radical social liberalism, which still operated in the name of the individual, by comparing it to Jacobinism, accusing it of forcing society into abstract molds, inevitably leading to tyranny.¹⁶ The explicit and highly symbolic demarcation against

¹⁶ 16. For this motif in Acton and Maine, see Brinton, *Pol. Thought*, 205, 275 ff. Comprehensive accounts of the political thought of representatives of this school are provided by Brinton, who focuses primarily on Acton and Maine (198 ff, 266 ff), Barker, *Pol.*

Jacobinism reveals commonalities with counter-revolutionary conservatism, even though there is no reference to conservative theorists. However, it also implies that neither liberalism in its entirety is condemned nor the *ancien régime* romantically glorified. These classical liberals primarily object to two aspects of radical social liberalism: its extreme individualism, which, by invoking the absolute value of every individual and the resulting duty of social protection, effectively leads to the rootlessness of the individual; and its extreme utilitarian thinking, guided solely by economic and administrative calculation. The rootless individual and utilitarian calculus, in turn, represent two sides of the same coin, as both lack firm attachment to pre-existing values. Thus, the only remaining force to hold—or rather dissolve—society together becomes vulgar eudaimonism and the psychologically and culturally disastrous self-serving instrumental rationality. In opposition to the egalitarian welfare state and its associated cultural and intellectual degeneration, as well as the extreme atomization of society in various forms, these classical liberals advocate for a return to higher spiritual values, which stabilize hierarchies through authority—particularly Christian values—and for the strengthening of supra-individual social structures, starting with the family.

Similar or even identical ideas shape the socio-political thought of the so-called “neoliberalism,” which emerged programmatically during or shortly before the Second World War. The vast majority of its more or less typical representatives or adherents are those who today call themselves “conservatives.” Since neoliberalism developed theoretically, not least under the impression of the economic crisis of 1929, it necessarily paid particular attention to economic issues and proposed various measures to mitigate economic fluctuations (such as decentralization of industry, promotion of individual self-sufficiency, and increasing the bourgeois share in the economy). Beyond these economic considerations, however, the primary polemical objectives remain largely the same: on the one hand, massification, and on the other, cultural and moral “decline.”¹⁷ Massification is seen as a byproduct of egalitarianism and the bureaucratic welfare state, which both advances and embodies the development of egalitarian mass democracy. At the root of this “decline” lies the narrow rationalistic mindset, i.e., purely instrumental and utilitarian reasoning. Its manifestations are scientism, positivism, and technicism, which, by their very nature, disregard moral values, having first eroded and undermined them through relentless critique. In other words, rationalism dissolves values by treating all values, depending on time and place, as equally valid and thus equally good for particular social functions, leading to skepticism when attempting to extend the principle of liberal tolerance to all

Thought, especially 145 ff (on Maine and Stephen), and Lippincott, *Vict. Critics*, 144 ff (on Stephen, Maine, and Lecky). Similar views underpin the social-political thinking of Lord Salisbury, as we will see in Chapter IV, Section 1d.

¹⁷ 17. For the following, see especially Röpke, *Gesellschaftskrisis*, 15 ff., 23 ff., 85 ff., as well as *Civitas Humana*, 112 ff., 133 ff., 241 ff. Röpke's intellectual-historical analyses are often superficial and amateurish.

values. An internal connection exists between this liberal rationalism and the detachment of members of mass society from tradition and fixed, especially religious, values. The tangible result is economism and the general turn toward the vulgar hedonism of consumption.¹⁸ In short, rational scientism is calculating and intellectually rootless—fundamentally egalitarian and revolutionary. It serves as the practical and utilitarian ideology of mass society. Therefore, rejecting the egalitarian mass society and the bureaucratic welfare state must go hand in hand with rejecting this form of rationalism.¹⁹ If state bureaucracy is to be replaced with a decentralized society in which individuals are freely and organically connected to manageable collectives, and where talent and achievement create natural and healthy distinctions between individuals, then a return to intellectual and moral values is expected to provide relief against dry rationalism. Confronted with the ultimate logical and practical consequences of certain basic postulates from the demiurgic phase of liberalism, neoliberals feel the need to distance themselves from these consequences and emphasize this differentiation by employing the adjective “conservative.” However, this is unlikely to bring about a revival of the substantive content of historical conservatism. In reality, it is merely a clash between two different interpretations of the nature of liberalism. For example, Röpke, when describing himself as “conservative,” associates the term with a call to defend “a free culture of personality,” which is fundamentally a classic liberal value. He adds that he considers himself no less a “liberal revisionist,” to whom the idea of fundamentally opposing liberalism as such is utterly alien. Liberalism, as the ideology of a “non-collectivist and non-feudal-medieval society,” remains indispensable, and the task is merely to eliminate “certain fundamental aberrations of 19th-century historical liberalism,” such as those mentioned above, which paved the way for “pure democracy.”²⁰ The intellectual constellation is not fundamentally different among other representatives of this school of thought, even if they differ in details, terminology, or intellectual lineage.²¹

¹⁸ 18. Contemporary “conservatives” often oppose the “constant artificial generation of new consumer desires,” particularly because this “artificially induced uniformity” impairs the free development of the individual. See, for example, Schwarzkopf, *Was ist heute konservativ?*, 48. Incidentally, all the key points of the “conservative” program outlined by Schwarzkopf (legitimate authority, freedom, limitation of the welfare state) align with the demands of neoliberalism.

¹⁹ 19. This connection was recognized and emphasized early on; apart from the aforementioned Victorians, it appears prominently in Mallock’s writings around 1900. On this, see Kirk, *The Conservative Mind*, 345 ff.

²⁰ 20. *Gesellschaftskrisis*, 41 ff.

²¹ 21. Some examples may illustrate this. Hayek distances himself from those “conservatives” who approve of state intervention in the economy, discredit free markets and entrepreneurship, and are willing to use coercion to achieve their goals. He does not specify which “conservatives” he means, but it is clear that he, like Röpke, cannot identify with an anti-liberal “conservatism.” His subsequent critique of liberalism, therefore, comes

Before we consider neoliberal “conservatism” in more detail, we must mention the significant and historically consequential fact that the first characteristic emergence of (old) liberal positions under a “conservative” banner occurred in England toward the end of the 19th century, precisely during the time of the aforementioned Victorian critics of “Jacobin” liberalism. The difference between this English phenomenon and neoliberalism lies in the fact that, while in the latter case, liberal positions were firmly established from the outset, with the “conservative” label applied retrospectively, in England, a party originally associated with the *landed interest*—and therefore rightly bearing the name “conservative” as a sign of its fundamentally anti-liberal stance—moved closer to moderate liberalism. This occurred during the ultimately successful attempt to win over the bourgeoisie, which had largely been alarmed by the shift (of a faction) within English liberalism toward a utilitarian-welfare-state “Jacobinism,” even at the cost of effectively severing ties with the now substantially weakened *landed interest*.²² The outcome of this union was the widespread practical adoption of (old) liberal ideas while maintaining the conservative banner. However, this banner signified more than just an interchangeable label—not so much due to its historical origins but rather because it now also symbolized the struggle against “Jacobin” liberalism. The English “Conservatives”’ memory of their historical roots simultaneously allowed for a pragmatic and adaptive attitude—free from the

from an old-liberal standpoint, which he explicitly links to the intellectual legacy of Tocqueville and Lord Acton (see our earlier note on the Victorian critics of “Jacobin” liberalism). Hayek distinguishes this position from statist liberalism (in the American sense of the term), rationalist continental liberalism, and even the English liberalism of the utilitarians. For his stance, he chooses the designation “Whig”—but not without recalling Lord John Russell’s statement (circa 1850) that Whig essentially means “liberal-conservative” (*Constitution*, esp. 485, 488, 492, 493 n. 15).

Meyer identifies as “conservative,” which changes little in substance since he adheres to liberal individualism, free markets, and parliamentarianism while opposing rationalist-utilitarian liberalism, which he argues has eroded belief in an objective moral order (*Conservatism*, esp. 5 ff., 12). Another “conservative,” Kaltenbrunner, tacitly adopts the foundational principles of neoliberalism, arguing that the preservation of genuine liberal principles—what he sees as the first duty of today’s conservative—can only be achieved against a “liberalism of emancipation” that has turned into pure fury. The conservative, he claims, is simultaneously “a critic and heir of liberalism.” How deeply such “conservatives” are entrenched in liberalism, even in its ahistorical modes of thought, is evident in Kaltenbrunner’s statement: “Formal, abstract, and bourgeois liberty is liberty per se” (*Der Konservative...*, esp. 7 ff., 18; *Der schwierige Konservative*, 51).

It must be noted (and regretted from a scholarly perspective) that under the influence of the neoliberal blending of conservative and liberal terminology, definitions of conservatism have emerged in which (old) liberalism appears as one variant of conservatism—characterized as a “philosophy of imperfection... directed to the defense of a limited style of politics,” primarily opposing the unbounded faith in progress and optimistic dirigiste activism of “Jacobin” liberalism. See, for example, O’Sullivan, *Conservatism*, 12 ff.

²² 22. Regarding this development, see Chapter IV, Sections 1b and 1d.

dogmatic prejudices of pure laissez-faire liberalism—and offered a more accessible path to the realm of enduring values (tradition, order, religion, etc.), which were essential in the fight against radicalism. Thus emerged a construct that anticipated many central tenets of the neoliberalism that would arrive several decades later. This explains why contemporary British conservatives often approach neoliberal doctrines with confidence and sometimes a certain condescension, seeing the tradition of their own party as broader and more instructive. Nevertheless, the ultimate results are similar or identical: embracing liberal critiques of socialism and defending property and private initiative in the economy; rejecting the bureaucratic welfare state while approving a discreet regulatory role for the state in response to the impracticality or undesirable consequences of pure laissez-faire; attempting to overcome the fundamentally amoral rationalist utilitarianism, economism, and unchecked individualism (also) through a return to religious and traditional ideas, and so forth.²³ Convinced of their contributions to the liberal cause, British conservatives can calmly recommend to those who still call themselves “Liberals” or the “Liberal Party” to join them in opposition to socialist statism.²⁴ In fact, the socialist threat, in whatever form, especially after the First World War, has been a significant factor both in the increased tendency of liberals to adopt the “conservative” banner and, conversely, in the willingness of those who had remained loyal to the ideas of traditional aristocratic conservatism (to varying degrees and in different ways) to reappropriate (old) liberal core positions, particularly concerning the inviolability of property and economic freedom, while perhaps maintaining the conservative banner. These shifts must be carefully documented to avoid being misled by the banners in question.

The characteristic that is supposed to distinguish neoliberalism from “Jacobin” liberalism simultaneously creates a bridge to what is perceived in this new context as “conservative” *par excellence*. This involves the aforementioned emphatic appeal to spiritual and moral values as a countermeasure against the amoral effects of scientism, utilitarianism, and economism (or eudaimonism), which ideologically dominate the life of mass society and are thought to produce an “immature” type of human being within sprawling bureaucratic systems. In contrast to the relentless, purposeless, and ultimately dangerous flux of a society in the throes of breathtaking progress—one that forges its own chains—values are seen as fixed points of orientation and reliable anchors, expressing and affirming an objective, enduring order. This conception seems to share much with historical conservatism. However, in reality, only slogans or keywords are borrowed, with no regard for their original, concrete historical context, which is either (in most cases) simply unknown or discreetly set aside or reinterpreted. This ignorance or modernization of the (conservative) past is, of course, symptomatic. For while contemporary

²³ 23. See also the influential work by Lord Hailsham, *Conservative Case*, especially pp. 19 ff., 28 ff., 64, 70, 94, 96, 97, and 114.

²⁴ 24. See, for example, Coote, *Cons. and Lib.*, especially p. 207.

"conservatives" may politically and aesthetically despair over modern mass society and democracy, and may nostalgically long for the 19th, 18th, or even 13th century during reflective moments (assuming tacitly, of course, that they would rightfully belong to the ruling elite of those times), they are ultimately compelled to accept the 20th century as their own and to regard parliamentary democracy as the "only real alternative" to totalitarianism.²⁵ Furthermore, a genuine identification with historical conservatism is hindered by the fear that such an association would imply solidarity with its sins, a political liability in polemical disputes, especially since leftist opponents of contemporary "conservatives" frequently accuse them of direct descent from the reactionary camp of the counter-revolutionary years around 1800.²⁶ Thus, these "conservatives" feel compelled to highlight liberal aspects of historical conservatism—or fabricate them—or to selectively treat its tradition, explicitly distancing themselves from its "reactionary" wing.²⁷ This very lack of commitment reveals the modern "conservatives" relationship to historical conservatism as artificial and fictional.

For the neoliberal "conservatives," it is indeed impossible to extract anything from historical conservatism beyond slogans, which must then retroactively be infused with some kind of contemporary relevance. The original content of conservative catchphrases, after all, was directed against the very content with which they are now filled—from the market economy to human rights. If this is the case, the question arises as to whether the grand principles summarized in these

²⁵ 25. We translate here the strained confession of a "conservative" like Rossiter (*Conserv.*, p. 17).

²⁶ 26. From a Marxist-Leninist perspective, Elm claims that conservatism does not possess a singular class-bound character, as socialism or liberalism does, but rather has successively served as the ideology of feudal-aristocratic, bourgeois-national-liberal, and imperialist forces. According to Elm, its continuity as a political ideology is based on the discontinuity of its social base. Elm does not explain how this thesis aligns with the Marxist concept of ideology and the base-superstructure relationship; his apparent focus is to support the familiar thesis of the historical genealogy of National Socialism. He argues, however, that conservatism differs from National Socialism not in ideological content but only in its use of terror (*Traditionen*, esp. pp. 13, 15). Similarly, Grebing contends that conservatism and capitalism have been intrinsically linked since Marwitz and Gentz, such that the bourgeois liberalism dominant to this day can only be conservative or reactionary (*Aktuelle Theorien*, esp. pp. 23 ff., 32; *Konservative*, esp. pp. 35, 38, 45, 47). Grebing's thesis is nothing more than a projection of the aforementioned leftist interpretation of the National Socialist phenomenon far back into the past; incidentally, the author's historical scholarship leaves much to be desired.

²⁷ 27. Even Kaltenbrunner, who ventures furthest in identifying with historical conservatism, attempts to trace the blending of liberal and conservative elements back to Chateaubriand, the originator of the term. Furthermore, he asserts an essential distinction between conservatism and reaction. "Bad conservatives," according to him, include Haller and A. Müller, while "good" ones are Baader, Gentz, Ranke, and (tellingly) Tocqueville (*Der schwierige Konserv.*, pp. 26, 28).

slogans (order, hierarchy, tradition, religion, etc.) can be considered valid in themselves, independent of their content and past failures. Liberalism, by its very success, has vividly demonstrated that what conservatives once deemed entirely unnatural under the light of their principles was, in fact, functional. What guarantee exists today that these same principles will not deceive again? At the very least, general principles must be separated from their concrete historical applications to allow their invocation in times of intellectual and political crisis. Even regarding Christianity—where one might most expect stability in perspectives—the shift in emphasis is both unmistakable and dramatic. To historical conservatism, Christianity primarily appeared as embodied in the Church, which sanctioned or represented social hierarchies and disciplined sinful, anarchic individuality. In contrast, for neoliberal “conservatives,” Christianity has become individualistic and personalist, forming the inner faith and support for a subject who acts, decides, and endures on their own responsibility within a free market economy. Turning toward the higher realm of religious values is intended to signal and reinforce a break from the materialist-economistic mindset and behavior of the consumer mass society. The goal is to ideologically strike at the foundations of massification and the welfare state. A personality shaped by such spiritual needs, it is argued, cannot be massified or alienated. Moreover, its inner detachment from the superficial entitlement mentality of the spoiled consumer fosters dutiful service and a positive foundational relationship to existing institutions.²⁸ If these ideal preconditions are fully present, a person who identifies as a conservative through their Christianity could just as easily call themselves a liberal. After all, the Christian stance is inherently freedom-oriented and personalist, whereas conservatism as such has often been associated with reaction and authoritarianism. Thanks to this understanding of Christianity, neoconservatism and neoliberalism merge, facilitating the overcoming of the rationalist-relativist and economistic aspects of liberalism.²⁹ Faced with the specter of collectivism, personalist Christianity and a liberalism moderated by Christian-“conservative” thought are expected to join forces.³⁰ This bourgeoisification—marked by the personalization and individualization of Christianity, in stark contrast to historical conservatism—has made neoliberal attempts to leverage the “Christian tradition of the West” for their own socio-political aims unappealing to Catholic circles.³¹ There are also

²⁸ 28. Typical statements can be found in Gerstenmaier, *Was heißt heute konservativ?*, p. 29. See also Clarke, *Conservative Faith*, pp. 8 ff. Compare Friedrich, *Neo-Liberalism*, p. 514.

²⁹ 29. This is the position of Kuehnelt-Leddihn, *Neokonservatismus und Neoliberalismus*, esp. pp. 123 ff., 131 ff.

³⁰ 30. See Schöningh, *Was heißt heute konservativ?*, p. 33.

³¹ 31. See the comprehensive book by Nawroth, who, not unjustifiably, defines neoliberalism as a new version of “nominalist Enlightenment philosophy” and “liberal individualism” or simply as a renaissance of “classical liberal thought” (*Sozial- und*

"conservatives" who, either due to the egalitarian-revolutionary interpretive potential of Christian teachings or because they aim to keep their socio-political views free of "ideology," fundamentally reject binding their positions to religious thought.³² This secondary yet existing divide between Christian and non-Christian "conservatives" highlights once again the ideologically precarious nature of the intellectual frameworks presented today as "conservative."

The return to traditional Christian values: aligns with the embrace by our "conservatives" of another slogan from historical conservatism, namely that of social hierarchy, which is ultimately rooted in the natural inequality of humanity. This connection arises both from the supposed inclination of Christians to respect established orders as divinely ordained and from the conviction that Christian inwardness can be satisfied with any position within the social hierarchy. Meanwhile, the extroverted "shallow" non-Christian, supposedly rootless, exemplifies both the type who ruthlessly strives upward and the spoiled consumer. This extroverted type, therefore, becomes the physical engine of the all-upending mobility of mass society, which fuels the tendency to level individuals and values. In this sense, the neoliberals' appeal to Christian or other "higher spiritual values" ties directly to their battle against the egalitarianism of mass society and their elitism, a tendency noted by several observers.³³ This elitism is often justified by the thesis of the natural inequality of humanity.³⁴ We will soon address the highly ambivalent implications of this thesis, which many of its "conservative" advocates fail to grasp. Typically, this argument is sublimated into a theory about the unbridgeable conflict between freedom and equality. When attempting to articulate this conflict through ontological categories, our Christian "conservatives" exhibit unease with natural-law egalitarian interpretations of Christian anthropology and the doctrine of *imago Dei*. While the equal moral value of all individuals is theoretically recognized, it is asserted to ground only an ethical right, not a

Wirtschaftsphilosophie des Neoliberalismus, p. 425).

³² 32. For example, Kaltenbrunner, *Der Konservative...*, p. 11. Topitsch also points to the possibility of a revolutionary interpretation of Christianity and natural law and additionally highlights the structural similarity of such thought systems to Marxist doctrines of salvation (*Aufgeklärter und unaufgeklärter Konservatismus*, p. 12). However, when he demands that "the insights of modern scientific thinking be made fruitful for a fundamental attitude that could be described as enlightened conservatism" (p. 13), he overlooks, on the one hand, the importance of the ideologically illusory component for practical action (an importance he himself has effectively highlighted in other contexts regarding his political opponents), and on the other hand, he inadvertently acts in the same way as the natural law theorists or the Christians: namely, he seeks to derive an *ought* (a normative fundamental attitude) from an *is* (this time, however, scientifically grasped), failing to recognize that anyone who establishes and defends norms structurally approaches ideological thinking.

³³ 33. For example, Friedrich (*Neo-Liberalism*, p. 518) and O'Sullivan (*Conservatism*, p. 115).

³⁴ 34. See, for example, Rossiter, *Conservatism*, pp. 25 ff.

political or economic demand.³⁵ More direct formulations clarify that the “conservative” does not desire freedom in the abstract but rather a specific kind of freedom that preserves existing inequalities or restores those that have been eliminated.³⁶ Yet even the most emphatic defense of inequality by contemporary “conservatives” cannot erase the fundamental substantive difference between their perspective and that of historical conservatism. Whether they like it or not, they stand on the foundation of the long-victorious liberal revolution and must therefore justify inequality based on higher aptitude or superior performance, rather than on biological affiliation with a specific group or appeals to the long history and heroic deeds of ancestors. Social inequality based on differing abilities or achievements can indeed be understood as a function of humanity’s natural inequality. However, there is a crucial distinction between this form of inequality and the hereditary inequality historically championed by conservatism: inequality based on ability and achievement is not necessarily tied to the dominance of a specific social group. No lasting legitimacy of rule can be derived from the general observation of natural inequality in human abilities and achievements, particularly since the superiority of talent and performance originates and fades with finite individual subjects. Furthermore, considering that there is no singular “ability,” but rather multiple types of ability, each capable of legitimizing or at least supporting domination, it becomes evident that due to the very natural inequality of humans, the enemies of these “conservatives” could just as well gain and retain the upper hand. When measured solely by ability and achievement, inequality neither logically nor practically guarantees a bright future for those who, to recall Orwell, are presently more or less equal than others. Nevertheless, “conservatives” must cling to the thesis of inequality in the current configuration for polemical reasons, as long as their opponents extol and promise the realization of unexamined equality.

The example of the inequality thesis illustrates that contemporary “conservatives,” in their reliance on slogans from historical conservatism, not only quietly or unconsciously substitute old content with new but also entangle themselves in contradictions or perform logical leaps. We will briefly discuss some of these significant issues to better illuminate the reasons why a clear definition of contemporary “conservatism” as an organically developed successor to the historical version is impossible. Even the mutual, nominally identical invocation of tradition as a legitimizing, authority-creating instance fails to establish any necessary historical or intellectual continuity between conservatism and “conservatism.” Two reasons underpin this. Firstly, due to the inherent ambiguity and manipulability of the concept of tradition—previously discussed—modern “conservatives” understand something quite different from what, for instance, the counter-revolutionaries of the early 1800s did. Especially since they generally

³⁵ 35. Feiling, *Principles of Conservatism*, p. 135.

³⁶ 36. So Cowling, *Present Position*, p. 9.

refuse to identify with the “reactionary” sins of the past, they construct a “Western tradition” that supposedly always contained or aimed at bourgeois values and freedoms, even though for the conservative pioneers of the *societas civilis*, censorship and book burnings were considered entirely normal within the same “tradition.” Secondly, contemporary “conservatives” speak of tradition and associated authority under conditions where traditional legitimacy and rule lack institutional or adequate psychological support—quite the opposite, in fact. It is difficult to see how tradition could provide the necessary authority within modern economic and administrative systems, where only the—ironically, often praised by “conservatives”—higher aptitude and efficiency can command respect. Equally problematic is the application of tradition on the political level within today’s parliamentary systems, where even traditional values are elevated to guiding principles only through the power of the ballot box. Their political representatives and advocates, in discussing these values, inevitably appeal to the “small man with his vote,” anxious about the uncertainties of radical democracy.³⁷ “Conservatives” who simultaneously champion tradition and modern parliamentarianism overlook the fact that in the so-called blessed times of traditional rule, the legitimization of authority through equal, secret, and universal voting was unthinkable. Back then, rulers derived their authority in no small part from the very absence of such legitimization via the ballot box—a process considered an expression of the “mature citizen’s” will. Is the bearer of traditionally legitimized authority the one seeking votes in its name, or the voter who selects him after scrutinizing him on television? How can an election—which could have turned out differently—legitimize tradition, which, by definition, can only be what it already is?

To curb the selfish individualism and anarchic rootlessness of the members of mass society, which drives forward egalitarianism, the “conservatives” aim to employ not only Christianity, tradition, and authority but also supra-individual structures (family, professional organizations, associations, local self-governance) that provide individuals with natural security, thereby shielding them from the grasp of the state. The state, they argue, primarily develops despotic tendencies when dealing with a mass of isolated individuals. While the state and nation remain overarching entities to mediate disputes and limit unilateral interests, they are now envisioned as arising from the “organic” composition of the aforementioned structures.³⁸ On paper, this golden mean between unbridled individualism and unchecked state despotism seems convincing. However, questions arise as to how such a state could compete economically, militarily, and geopolitically with others that can achieve a greater, more disciplined, and purpose-driven concentration of their forces, even at the cost of “freedom.” Moreover, how could such a state survive a defeat in this competition? Or even be

³⁷ 37. Vgl. die Bemerkungen von Landshut, *Restauration*, S. 50.

³⁸ 38. Clarke, *Cons. Faith*, S. 14 ff., und vor allem Nisbet, *Quest*, Kap. 9–11.

implemented, given the fear of such a defeat? Conversely, one might also observe that these and similar supra-individual structures could easily become intermediate stages of a totalitarian pyramid. In such a system, the base would consist of the formally autonomous individuals, while the apex would belong to the ruling elite. Historical experience with “totalitarian” states—distinct from the dystopian worlds of negative utopias—shows that they rarely address individuals as such, in isolation. Rather, they prefer to control individuals through integration into organizations and associations that structure their daily environments, professional lives, or leisure activities. These organizations are by no means automatic guarantors of “freedom” but derive their function from the overarching character of the polity they belong to. Yet, our primary focus lies elsewhere. When historical conservatism mobilized various “organically grown” human communities against the regulation of social life by the bureaucratic modern state, it sought to counter not only the state itself but also ideas and principles claiming validity beyond the boundaries of these “organic groups.” These ideas included, above all, so-called human rights, whose universal claims conservatives of the 18th and 19th centuries rejected, pointing to the rooting of law and rights within specific historically formed human communities. Today’s “conservatives,” however, at least the majority, seek to uphold both the liberal universalism of human rights—largely for polemical purposes in the fight against “totalitarianism”—and to activate social structures whose worldview and activity must inherently be particularistic. Insofar as this particularism opposes the grasp of the modern state, it completely disregards the historically decisive role of this very state in implementing and safeguarding universal rights and rules. This anti-state social particularism is further accompanied by an intellectual particularism, namely the stereotypical conservative preference for the “empirically given” over all “abstractions.” In doing so, the role of abstraction in shaping the concept of human rights, as well as the corresponding role of the modern state, is overlooked. The simultaneous defense of the historically developed and particular against abstractions, alongside human rights against “totalitarianism,” constitutes a *contradictio in se*, as the concept of human rights could never have emerged without abstraction from history—i.e., from the concrete rights and duties of people within specific groups—and without the corresponding subordination of these groups to the uniform rules of a centrally governed state. In this regard, the representatives of historical conservatism were correct. However, contemporary “conservatives,” if they wish to remain fully committed to their “organic” particularism, must break with liberal universalism in all its forms. Similarly, they would have to advocate for the abolition of universal, equal, and secret suffrage if they were to serve the idea of traditionally sanctioned authority with utmost seriousness and consistency. Without a doubt, some among them, driven by their rage against egalitarian mass democracy and the bureaucratic welfare state, would be willing to go that far. Yet, when it typically remains at the level of vague insinuations, the reason is once again polemical: human rights and modern parliamentarism must remain as intact

as possible, readily available as weapons in the overarching fight against "totalitarianism." The conflict between the liberal core and the "conservative" shell of the social philosophy espoused by our "conservatives" becomes evident when the ultimate logical and practical consequences of economic individualism—namely, the all-consuming and thus highly permissive mass society—are rejected, yet the principle of economic individualism itself is dogmatically upheld to varying degrees. The "conservatives" recognize that consistent individualism, in its union with economic considerations (as utilitarianism), inevitably undermines traditions and authority with relentless force, ultimately subordinating everything to eudaimonistic calculation.³⁹ They are also aware, or at least intuit, that rejecting the permissive society while endorsing economic individualism can often prove difficult to reconcile in political practice.⁴⁰ Nevertheless, they have yet to devise an effective strategy to resolve this contradiction, which frequently hampers their socio-political efforts. Instead, they tolerate it, relying in practice on moral appeals and exhortations that, unless underscored by urgent circumstances, tend to fall largely on deaf ears. If their efforts were successful, it would imply that the vast majority of people acted out of "spiritual" and "moral" (in the "conservative" sense) motivation—a notion belied by the very state of affairs that "conservatives" themselves decry. Even when they wholeheartedly detest the vulgar-eudaimonistic mass consumption and its leveling effect on people and values, they are fundamentally unable or unwilling to forbid entrepreneurs from producing goods based purely on profit speculation—often exploiting "lower instincts"—nor to prevent consumers from indulging in such products. Furthermore, they cannot stop the expansion of this type of production and consumption to encompass virtually every aspect of life. Even the "spiritual values" championed and propagated by "conservatives" themselves are inevitably affected, functioning more as consumable cultural commodities than as undisputed, objective normative standards. In this sense, the intellectual and moral relativism of egalitarian mass society is closely tied to the generalization, that is, the quantitative and qualitative intensification, of consumption. When values become consumer goods, unworthy values—or "unvalues"—can also be consumed, at least to some extent. Permissiveness spreads or even sets the tone, and strict morals loosen, if not entirely dissolve. Morality is not merely a moral issue; it is also a matter of permanence. Consequently, the dissolution of morals undermines tradition in its broadest sense. Today's "conservatives," who advocate for tradition and morality,⁴¹ fail to address what should be done when custom is replaced by fashion—when the relentless renewal at all levels of life becomes custom itself. Nor can they refute the observation that such renewal is encouraged

³⁹ 39. Anstatt vieler: Casey, *Tradition*.

⁴⁰ 40. Über das Dilemma der Tories in dieser Beziehung vgl. Gamble, *Cons. Nation*, S. 112 ff.

⁴¹ 41. S. z. B. Merkat, *Kons. Funktion*, S. 71.

by the existing structure of the economic mechanism or the principle of economic individualism. As a result, their stance toward renewal and fashionable change remains as ambivalent as their attitude toward efficiency. In moments of grand (semi-aesthetic) reflection on social issues, efficiency—especially when tied to demands for centralization or nationalization—is often viewed as a suspect byproduct of narrow utilitarian thinking.⁴² Yet in most, if not all, practical economic decisions, efficiency remains the paramount criterion.⁴³ It is telling that even neoliberal-“conservative” critiques of the bloated bureaucratic welfare state frequently employ the criterion of efficiency to appeal to the average manager in business and politics, as well as to a broader audience. Deep cultural critique, on the other hand, is reserved for the narrow intellectual circles of the “conservatism” connoisseurs.

The exaltation of efficiency is not merely a practical necessity but also a powerful argument in the ideological and propagandistic struggle against the “bureaucratic” and “cumbersome,” ultimately inefficient, “totalitarianism.” It is, in fact, the consideration of the tactical and strategic demands of this struggle that explains much of the “conservative” ambivalence regarding the aforementioned issues. The dilemma facing contemporary “conservatives” can be summarized as follows: they must prevent the “tyranny of the majority” while simultaneously combating the tyranny of a totalitarian minority—and this, paradoxically, in alliance with the very majority whose legal tyranny they fear. The fight against the latter, seemingly far graver, enemy necessitates concessions to the former. Thus, the difficulties “conservatives” encounter with the mass-consumption-driven society are compounded by the reality that, for many “enlightened citizens,” abundant consumption serves as the principal legitimization of the “free world” against “totalitarianism,” often caricatured as a regime of long queues and limited options for shoes and clothing. In their competition with “totalitarianism,” particularly after World War II, “conservatives” came closer to the radical liberal principle of “the greatest happiness of the greatest number,” thereby encouraging consumer habits that they now view with skepticism. For several decades, the enhancement of material prosperity within the framework of continuous growth—offering ever-greater professional and social opportunities to more people—was upheld as an undisputed ideal.⁴⁴ Moreover, the idea and practice of the welfare state were developed as a means of silencing “totalitarian” critics of capitalist economies and societies. Politically, the expansion of the welfare state was deemed so vital that it had to be undertaken, even though many

⁴² 42. S. z. B. Clarke, *Cons. Faith*, S. 23.

⁴³ 43. On page 181 of the Conservative Party anthology, from which the rather dismissive view of Clarke regarding efficiency was just quoted, the unequivocal statement reads: “Britain’s need to-day is the full use of her productive resources in the most efficient way.”

⁴⁴ 44. On these tendencies in the British Conservative Party, see, for example, Gamble, *Cons. Nation*, pp. 57 ff., 74 ff.

“conservatives” recognized from the outset that it would generate ongoing conflict, as the welfare state required increased taxation, while fostering private initiative demanded tax reductions.⁴⁵ Such practices and the constant attention to the necessities of the ideological battle against “totalitarianism” led “conservatives,” particularly in the postwar period, to emphasize that conservatism is characterized by openness, receptiveness, and a “genuinely” progressive mindset. However, when progress is fundamentally affirmed under the pressure of the zeitgeist and in the name of ideological survival, the question inevitably arises: “What is to be changed?”—pushing the act of conserving perpetually into the defensive. For instance, the demand for “continuity in economic development”⁴⁶ provides no real solution, as the very meaning of “continuity” and “organic growth” is altered by large-scale, highly industrialized economies. Indeed, the economic gigantism that “conservatives” claim to oppose is itself the result of an almost automatic continuous process, while measures to counter it inherently exhibit voluntaristic and dirigiste characteristics. Concretely, the question arises: What is supposed to “grow organically”? Once a society is on the path to bureaucratization, “organic growth” can only mean further bureaucratization. Like all ideological thinkers, “conservatives” imbue their foundational concepts with normative dimensions: “organic growth,” for them, by definition, is only what leads to their desired goals. Thus, even the dismantling of the welfare state from above or the enforced limitation of consumption could be described as genuine organic growth. However, what the “conservatives” fail to recognize is that the vast redistribution problems such dismantling would create could ultimately only be resolved through more administration and even greater rationalization—rather than through tradition and custom. Under present conditions, less welfare state and consumption does not necessarily mean less state.

Thus, we come to the last of the major ambivalences of the “conservatives,” namely their stance toward the state. Despite their programmatic rejection of state expansion and bureaucracy, the “conservatives” find themselves compelled to either tolerate or actively promote such expansion for domestic socio-political or electoral tactical reasons. This was, as mentioned, the case with the welfare state, which was intended to undercut anti-capitalist propagandists. State expansion often occurs under the pressure of foreign policy and military factors, which we will set aside here to focus instead on the social aspect of the problem in a narrower sense. Fundamentally, it must be said that the “conservative,” perhaps unintended and even unwelcome, yet decisively pursued expansion of the modern state occurs with the intent to compensate for the deficiencies and weaknesses of those who should be the natural social bearers of “conservatism” and who, in the desired but now unattainable ideal, would not require external, state-directed assistance to maintain their social position. We are speaking here of the bourgeoisie and the

⁴⁵ 45. On this conflict, see, for example, Epstein, *Pol. of Brit. Conserv.*, p. 37.

⁴⁶ 46. See Röpke, *Gesellschaftskrisis*, 41.

drastic transformation of their social status following the development of the welfare and social state in the 20th century. After the emergence of this state, the bourgeoisie has become one of the social groups that thrive or merely survive on its permanent or temporary favor. This significant historical and typological change is not readily perceived because the bourgeoisie still has the ability to influence the decisions of the modern state in its favor. However, every change in political leadership and every reorientation of economic policy reveals the extent to which the bourgeoisie, like all other social groups, is now affected by the day-to-day decisions of the state to an unprecedented degree. When we say that the bourgeoisie is no longer the sole master of the modern state but lives only under its umbrella and protection (though, as mentioned, under favorable circumstances, they can enjoy more or even significantly more state support than their competitors), this does not imply that there was ever in the past—apart from a few exceptions in the 19th century—a simple and unproblematic identity between bourgeoisie and state, as suggested by a famous line from the *Communist Manifesto*. The bourgeoisie of the 19th century had to share state power in countries like Great Britain or Germany in varying proportions with the aristocracy, which clung to the remnants of the *societas civilis*. Consequently, it was compelled—parallel to its defense of laissez-faire and for the sake of its implementation—to support the expansion of the modern state, which was now freed from those remnants, as the guarantor of uniform legislation and administration, i.e., uniform rules for the economy and society. Today, however, it shares that power (again in varying proportions) with social groups and strata that are positioned below, not above, it in the social hierarchy. These groups see in the expansion of the state and its assignment of social functions and duties the only reliable guarantee for advancing their own interests. The fundamental character of the modern state depends on whether it is primarily influenced by the social group that can operate with “minimal state” involvement or by the one that pushes for its social expansion. Either way, the state must remain the overarching and higher authority, initially in the sense that it does not entirely and definitively yield to the influence of one side but remains somewhat open to influence from all sides, adjusting itself accordingly in one direction or the other. Under these circumstances, the bourgeoisie, unable to completely suppress the influence of the other side or fully shape the state’s character at will, must adapt to the reality of this state. It must harness its now irrevocably interventionist and dirigiste activities for its own socio-political purposes, while simultaneously preventing these activities from expanding beyond a threshold that would leave no room for a bourgeois economy or way of life. In other words: since the bourgeoisie cannot rule alone and without constraint, it must compensate by seeking the help of the state. And since those with whom it shares power have now imparted non-bourgeois aspects to the state, the bourgeoisie, when utilizing state aid for its own purposes, must employ interventionist and dirigiste—that is, non-bourgeois—means to achieve bourgeois ends.

Caught in the dilemma of needing a state that is no longer (entirely) bourgeois and opposing this state because it can no longer be bourgeois, the contemporary "conservative" attitude toward the modern state takes shape. It reflects, first and foremost, the fact that the bourgeoisie not only no longer rules alone but has also lost the confidence of a ruler and now depends on the grace of the state, particularly its economic and financial policies. This loss of confidence, which simultaneously signifies a loss of vitality, manifests, for example, in the bourgeoisie and its "conservative" political representatives reconciling themselves to mixed private-state ownership forms in industry or to the idea and reality of state control when such arrangements promise and provide a secure "greenhouse existence."⁴⁷ Thus, they settle for rather short-term arrangements if these initially ensure survival or even guarantee temporary profits, even if, in the long run, this reduces the specific weight of "conservative" forces in the state and society, albeit imperceptibly. These partly clever, partly devious, and partly suicidal, unending practical arrangements by the bourgeoisie lend the "conservative" conception of the state and its functions the appearance of a colorful spectrum in which all possible evaluations, positions, and variations are represented. Alongside advocates of strong government economic policies openly opposed to laissez-faire,⁴⁸ there are those who fundamentally accept regulatory interventions by the state while rejecting its transformation into a welfare state, even though they concede it limited social responsibilities.⁴⁹ Additionally, others hearken back to the free traders of the 19th century. The general invocation of "conservative" themes, from Christian to economic, serves partly to obscure and partly to maintain the internal ambiguity of "conservatism" even on this issue.⁵⁰ "Conservative" theorists, intent on balance and synthesis while keeping their options open, often highlight both their rejection of unfettered liberal individualism and their associated positive evaluation of the role of the community and the state, as well as the limitation of this role through laws, rights, and values aimed at protecting the human person and freedom. These, they argue, equally and jointly belong to the "conservative" tradition.⁵¹ Particularly ideological representatives of the Conservative Party, proud of its long history, often conflate the continuity of the name with the continuity of the substance. They justify this view by historical arguments, asserting that in the 19th century, conservatives fought liberalism in the name of the state and authority, just as in the 20th century they opposed socialism in the name of individual freedom. Therefore, they argue, their current advocacy for overcoming laissez-faire and expanding the welfare state in freedom merely continues the

⁴⁷ 47. On the phenomenon in Britain, see Epstein, *Politics of British Conservatism*, 37ff.

⁴⁸ 48. See also Butler, *Industrial Charter*, 46ff, 48.

⁴⁹ 49. For further reference, see Clarke, *Conservative Faith*, 22ff, 34.

⁵⁰ 50. See Greenleaf's remarks in *Modern British Conservatism*, 207f., 1946.

⁵¹ 51. See also Feiling, *Principles*, 133.

venerable tradition of Disraeli, etc.⁵² The legend of Disraeli's worker-friendly attitude and policies, which some contemporary "conservatives" particularly cherish and uphold for understandable reasons, will occupy us in another context.⁵³ However, the thesis of a deeper continuity and unity in conservative politics, despite shifts in polemical targets, must be vigorously contested. When the conservatives of the 19th century opposed liberal individualism and laissez-faire, they did so in the interest of landed property, which, on the condition that the principle of property as such remained intact, urged the state to adopt "worker-friendly" measures. These measures aimed to lower the profit rates of industrial capital and thereby reduce its economic and social attractiveness—something that posed a threat to landed property in terms of capital scarcity and loss of prestige. In the 20th century, however, as the "conservatives," whether willingly or not, aligned themselves with industrial capital, they had to put the state in its service as much as possible and adapt their social policies accordingly—this time, as a weapon against the totalitarian enemy rather than as an obstacle to the industrial bourgeoisie. The character and objectives of the two forms of paternalism and their conceptions of the state thus differ fundamentally; they do not form a social or historical continuum but rather constitute two links in a chain of opposition.

The ambivalence and vagueness of the ideological framework of neo- or old liberal "conservatism" can be observed even more starkly in its American version. This is not only because, in caricature, the characteristic features of a face appear more clearly but also because the specifically American terminology preempted the emergence of European "conservatism," just as the latter provided arguments and ideological materials to its American counterparts in the post-war period. A parallel examination of both phenomena can therefore yield insights into both. By calling themselves "conservative" to distinguish themselves from "liberalism" understood as "progressive" dirigiste statism, European neo- and old liberals adopt the American terminology, in which "liberalism" has traditionally been associated with mistrust of laissez-faire and, conversely, with a positive view of "progressive" state intervention in economy and society. American "conservatives" thus face no identity crises when labeling themselves as such and when denouncing the statism, collectivism, and leveling tendencies of the domestic "liberals." They have grown up with this terminology and are at home in it.⁵⁴

⁵² 52. Similarly, Lord Hailsham, *Conservative Case*, 57ff, 66f., and Clarke, *Conservative Faith*, 7; compare with Epstein, *Politics of British Conservatism*, 30ff.

⁵³ 53. Refer to Chapter IV, Section 2.

⁵⁴ 54. Thus, Viereck contrasts conservatives and liberals when he sees the latter as progressives or even as a kind of fellow travelers of communists; however, he equates them when referring to European classical liberals who were aware of the opposition between liberty and equality (*Conservatism Revisited*, 18, 130f). Similarly, for Kirk, "liberal" means the same as "radical" or "socialist"; for the principles of classical European liberalism

Regarding the content of their socio-political thought, they follow, in all essential respects, the basic framework of European old- and neo-liberal "conservatism," enriching it perhaps with local nuances but presenting it, on the other hand (especially in terms of intellectual retrospectives and references), in a significantly more naive and dilettantish manner. Like their European counterparts, American "conservatives" aim to protect private property, the free economy, and parliamentarism from the excesses of liberalism—namely, the dirigiste welfare⁵⁵ state on the one hand and unbridled eudaimonistic individualism on the other, along with their social and intellectual preconditions and side effects. Particularly emphasized here is the importance of spiritual values, both against the vulgar materialism of consumption and against the "collectivistic materialism [sic] of Marx and other socialists," as "planned society," the "sterile mass-mind," or the "miserable collectivism which impoverishes both soul and body [sic]" are viewed as complementary aspects of one and the same historical phenomenon.⁵⁶ Economic reductionism and the domination of the impersonal mass individual are to be overcome through Christian idealism and personalism (more specifically, through increased influence of the churches),⁵⁷ as "conservatives" seek to "preserve the essence of man in the traditional sense and with orientation towards his God-given purpose of existence."⁵⁸ This marks the peak of a conceptual scale or a hierarchy of values and goals that aligns with the entire spectrum of motifs from European old- and neo-liberal "conservatism."⁵⁹

Given these identities in the selection and hierarchy of ideological materials

(parliamentarism, human rights, etc.), he uses the term "democracy" (apparently as an antithesis to "totalitarianism") and defines "old-style libertarian democracy" as hardly distinguishable from true conservatism (*The Conservative Mind*, 413). Not coincidentally, Kirk dedicates an entire chapter of his book to the familiar Victorian critics of mass democracy (see p. 265 and compare with notes 15 and 18 above).

Rossiter also relies on the American meaning of "liberal" in his contrast between conservatism and liberalism, although he acknowledges some commonalities between the former and the "sensible liberal" (*Conservatism*, 55ff).

Some American "conservatives" are aware of the difference between their terminology and the European usage (at least as it prevailed until a few years ago) and recognize that their political creed aligns with the European "classical liberalism" of the 19th century, "in its commitment to individual liberty and its corollary commitment to an economic system free of state control," as "liberalism" in American usage means the same as "democratic socialism" (Meyer, *Conservatism*, 3f).

⁵⁵ 55. Goldwater even considers "welfarism" more dangerous than all nationalizations because, as he writes, it is "much more compatible with the political processes of a democratic society" and therefore "more difficult to combat" (*Conscience*, 70).

⁵⁶ 56. Kirk, *The Conservative Mind*, 401, 405, 409; *Kons. in Aktion*, 206f.

⁵⁷ 57. Viereck, *Conservatism Revisited*, 22ff; Kirk, *The Conservative Mind*, 422, 432.

⁵⁸ 58. Kirk, *Kons. in Aktion*, 205.

⁵⁹ 59. See also Kirk's canon of conservative thought in *The Conservative Mind*, 7f.

as well as in their core intentions, it is no surprise that American “conservatives” remain trapped in the same fundamental contradiction as their European counterparts. Namely, they reject the ultimate social and cultural consequences of a system whose economic and political foundations they approve of—or they are unwilling or unable to reconcile themselves with the fact that—Hegelianly phrased—the basic order they favor must inevitably produce its own negation from within. They strive to draw upon older ideas and earlier, often long-defunct attitudes as a counterweight to the latest developments toward a consumerist mass democracy. On (Western) European soil, this fundamental contradiction is sometimes obscured or softened by the fact that such ideas have deep native roots and, in the worst case, need only to be revived (even if only on paper) rather than invented or imported. In the U.S., however, the glaring weak spot of contemporary “conservatism” is exposed precisely because the national tradition provides almost no ideological or social basis for constructing a “conservative,” i.e., “aristocratic” and “anti-economic” bulwark against mass democracy. This reveals the precarious position of “conservatism” as a whole (especially since, even in Europe, the use of old liberal ideas often stands in stark contradiction to the mass-democratic reality, making it feel just as artificial and contrived as in the U.S.). Thus, as mentioned, the caricatured nature of American “conservatism” provides us with the clearest insight into contemporary “conservatism” overall. The invocation of aristocratic ideals of life and the condemnation of unbridled individualism and economism by American “conservatives” sound particularly strange—indeed, almost comical—in a nation born and raised under the banner of pure liberalism (in the European sense, if such a thing ever truly existed), without the need to wrest victory over a domestic *ancien régime*. A truly conservative, i.e., anti-liberal, attitude could neither emerge from agrarian life, which was too isolated on individually run farms to foster a sense of “community” and “tradition,” nor from religious life, whose dominant Protestant tendencies encouraged an extreme individualism often linked to strong activist impulses. Even the old wealth class exerted no decisive influence on social life; its primary aim, faced with the rapidly accumulating wealth of the *nouveaux riches* and corporations, was often to adapt to the norms dictated by these newcomers rather than to assert leadership.⁶⁰ Ultimately, individualism and economism themselves became traditions, further developed in a eudaimonistic direction under the influence of mass consumption, losing at least some of their original Puritan traits in the process. Under these conditions, a deliberate socio-political tendency deserving the name “conservative” (only if it merely defends existing social and economic rules) could only emerge as advocacy for the endangered principle of laissez-faire, rather than opposition to it, as occurred in Europe. The threat to laissez-faire appeared on the American horizon in the late 19th century in the form of the welfare idea, which partially pushed back the

⁶⁰ 60. See Auerbach's excellent analyses in *Conservative Illusion*, especially 69ff, 95; Crick, *Strange Quest*, especially 373; and Wilson, *Anatomy of Conservatism*, especially 353.

laissez-faire principle—until then synonymous with political economy and often supported by social Darwinist arguments.⁶¹ It was during this time that “conservative”-minded judges delivered famous rulings aimed at curbing state interference in economic life, whether by restricting property rights or regulating labor relations in a welfare-state sense.⁶² The recollection of these facts may clarify why contemporary American “conservatives” had to turn to Europe (specifically, its past) to find the “higher” ideas and values they required. By doing so, they undertook the distinctly un-conservative task of inventing a tradition that would lend tangible existence to their predetermined doctrines.⁶³

The “spectral” character of American conservatism becomes evident in the widely noted observation that the ideals propagated by its advocates do not align with the prevailing worldview of the American business class, which is economistic and instrumental in its rationality.⁶⁴ Moreover, this class tends to set aside its fundamental objections to “Big Government” whenever such a government pursues policies in its favor. The “conservatives” themselves do not conceal this discrepancy. Kirk criticizes the intellectual shallowness of businessmen, who even boast about dismantling traditional structures and ways of life in underdeveloped countries through the introduction of mass consumption.⁶⁵ Rossiter openly admits that “the Conservative mood still fits our industrialists rather ill”; even if the American capitalist harbors “conservative” private views on government, religion, and family, his actions as a direct promoter of technological innovation and industrial growth are revolutionary. Consequently, he significantly contributes to the spread of materialistic and economistic views, theoretical impoverishment, and anti-intellectualism.⁶⁶ Rossiter envisions a kind of inner conversion of businessmen so that they could become the natural bearers of conservatism. For this to happen, they would need to detach themselves from economism, which he describes as a kind of inverted Marxism, and subordinate their activities to certain values and a sense of community—without abandoning the American practical and individualistic spirit.⁶⁷ The “conservative” does not

⁶¹ 61. For this development in the U.S., see the outstanding book by Fine, *Laissez Faire and the General-Welfare State*, especially 167ff (on Sumner and his Social Darwinism, see 79ff).

⁶² 62. See also the texts of the rulings by Justices Field (1873), Blatchford (1890), and Peckham (1905) in Sigler (ed.), *Conservative Tradition*, 257ff, 267ff, 289.

⁶³ 63. See Crick’s effective formulations in *Strange Quest*, 365, 373; compare with Wright Mills, *Conservative Mood*, especially 211, 212, 216.

⁶⁴ 64. O’Sullivan, *Conservatism*, 148; Lewis, *Metaphysics*, 740f. Lewis’ essay also provides a substantial critique of the “conservative” concepts employed by Kirk. Additionally, see Auerbach, *Conservative Illusion*, 133ff.

⁶⁵ 65. Kirk, *Conservative Mind*, 435ff.

⁶⁶ 66. Rossiter, *Conservatism*, 220ff, 229, 231ff.

⁶⁷ 67. *Ibid.*, 244, 66.

question the supremacy of profit as a motive; instead, he wishes it to be understood as something self-serving and kept within "reasonable," socially acceptable boundaries.⁶⁸ However, Rossiter does not specify who would authoritatively define these boundaries or what socio-political consequences such a definition would entail. Similar ambiguities arise in his dual view of individualism. On the one hand, individualism is said to have had partly disastrous effects, such as hindering the formulation and broad acceptance of an American "conservative" theory.⁶⁹ On the other hand, it is defended emphatically against collectivism. Evidently, two different kinds of individualism are being discussed, yet it remains unclear who would draw the not merely theoretically plausible but also practically binding distinctions between them—and how. There is an implicit assumption that the desired balance could somehow be achieved with goodwill from all sides. Thus, all the demands Rossiter makes as a "conservative" resemble an attempt to square the circle. He wishes to move away from materialism and economism but considers "production at an ever-rising pace" essential.⁷⁰ He advocates for strong leadership and the creation of an aristocracy, yet this must align with the ideals of American democracy. He rejects "the indecent anti-statism of laissez-faire conservatism," yet simultaneously has no desire for a strong government. Under such circumstances, it seems less paradoxical when, toward the end of his book and somewhat belatedly, he admits that he has sought to pose the problems rather than solve them.⁷¹

The key challenges facing contemporary conservatism become evident in its internal contradictions and ambiguities, which make any clear definition of it impossible. Consequently, there can be no meaningful discussion of continuity between it and historical conservatism, despite claims to such continuity being made for polemical purposes. The impossibility of a substantive definition of contemporary conservatism, specifically as conservatism, is apparent in the banalities often used to describe its essence. The most common of these states that a conservative is someone who views the existing socio-political and economic order as the result of historical development, endorses it, but does not exclude minor, cautious reforms and improvements.⁷² Some "conservatives" attempt to escape this

⁶⁸ 68. *Ibid.*, 41.

⁶⁹ 69. See *ibid.*, 221, 6.

⁷⁰ 70. Also *ibid.*, 286.

⁷¹ 71. And *ibid.*, 277.

⁷² 72. For example, Wilson in *Theory of Conservatism* begins by stating: "The conservative of today hardly knows what to conserve" (29). Viereck (*Conservatism Revisited*) similarly arrives at a banality after his extensive retrospective on Metternich's supposedly exemplary conservative policies, which comprise nearly two-thirds of his book: one should proceed cautiously without overturning the foundation of the existing order. Viereck would likely indignantly reject the remark that following this principle or advice could have led the Soviet leadership to demand such caution from the Czechoslovak reformers in 1968 as a

banality by arguing that conservatism is a “state of mind” rather than a set of principles tied to any particular party. This mindset is characterized by a “realistic departure from the concretely given, an aversion to abstractions, and a meaningful continuation of traditions.” Schoeps, whom we cite here, adds that the contents of older ideological positions have now formalized into attitudes and behavioral patterns that cut across all parties.⁷³ Yet, as previously discussed,⁷⁴ terms like “the concrete” or “tradition” prove nothing unless clarified by specific substantive statements. The primary logical obligation of someone advocating for “the concrete” is to define what “the concrete” means in concrete terms. Absent this definition, the word “concrete” is as much a meaningless phrase as the word “abstract.” To define “the concrete” concretely, a reference to specific content is unavoidable and indispensable. It is thus a contradiction to claim that conservatism starts from the concrete while maintaining that it is a purely formal attitude devoid of content. Advocating for the concrete necessarily entails advocating for *this* concrete, which binds the attitude itself to content deemed worthy of preservation. No attitude can exist independent of and disconnected from the defense of specific content. If the conservative attitude is separated from all content, every time it seeks practical expression, it must first answer the question of interpretation: What does the conservative attitude demand in a given situation before it can translate into action? This interpretive question follows conservatism at every step, jeopardizing its survival as a political force by perpetually risking internal division. The practical channeling of the conservative attitude — just like the “starting from the concrete”⁷⁵ — constitutes a matter of interpretation, as the connection of this attitude with a specific content is indispensable, even constitutive, for the attitude itself. Schoeps fails to acknowledge this because he assumes the interpretive question has been resolved in advance. The contents to which he binds his stance seem so self-evident to him that he treats them as inseparable components of conservatism or even identical to it. These contents align with those other “conservatives” have considered essential, as evidenced by Schoeps’s opposition to the welfare state, which he sees as stifling personal initiative.⁷⁶ This mindset is further exemplified by his interpretation of post-war West Germany, where conservatives, liberals, and social democrats supposedly united to defend “legal

condition to refrain from military intervention.

⁷³ 73. See *Kons. Erneuerung*, 7, 19f.

⁷⁴ 74. Refer also to Section 1 of this chapter.

⁷⁵ 75. Schoeps himself provides a good example when he discusses the conflict between the so-called “conservative socialists” around Wagener and the less socially inclined conservative faction of Gerlach, noting that both sides “had their valid reasons” (*Kons. Erneuerung*, 79ff). The shared conservative preference for the “concrete” clearly did not provide an unambiguous direction here, as the “concrete” was interpreted differently by each side.

⁷⁶ 76. A. a. O., 806

security and individual freedom against totalitarian claims and ideologies.⁷⁷ Schoeps infers from this shared commitment to liberal principles the existence of a conservative stance within all three parties, implying their identity in his view. However, this reasoning is inconsistent, as conservatism is supposed to be a state of mind rather than a substantive ideology. Moreover, if no conservatives can be found among the opponents of Western liberalism, what distinguishes a conservative from a social democrat, for instance, if their conservative or non-conservative status is null? If, as one must assume, the latter is less conservative than the former, how can one speak of a unified and homogeneous conservative stance across all parties? This is only possible if what is being discussed is not a stance but a set of principles—and if these principles are the shared liberal values. Schoeps thus conflates conservatism with liberalism without realizing it.

"Conservatives" who define their "conservatism" as a disposition or mood often describe it in intellectually refined terms, which frequently amount to idealized self-portraits.⁷⁸ From such portrayals, it becomes evident that those who label themselves as "conservative" often include liberals who wear their political fatigue—or even indifference—with a touch of affectation. For them, "conservatism" essentially signifies an apolitical, cultivated existence within a community governed by a weak state, stable rules, and personal freedom in choosing one's activities.⁷⁹ The turn toward apoliticism occasionally provides a psychologically comforting escape from the logical difficulties faced by anyone attempting to define conservatism in a clear and practically applicable way. The less political a "conservatism" is, the less vulnerable it appears to refutation—or even worthy of it. Often, this apolitical stance takes on a highly sublimated form, cloaked in metaphysical or poetic flights of fancy. Thus, one hears of the reconciliation of the conservative soul with the deeper harmony of the cosmos, its serene, erotic, and artistic nature, untainted by violence, fear, or distrust, whether stemming from revolutionary or reactionary forces.⁸⁰ A conservative, "secure in the order of being and seeing the image of the One in all things," is said to believe unconditionally in God and feel not only free from all ideology (!!) but also as a "stranger in modern parliaments, mass meetings, the press, and the world at large.

⁷⁷ 77. 7 A.a.0., 19.

⁷⁸ 78. See, for example, Rossiter's description of the "conservative mood," *Cons.*, 47.

⁷⁹ 79. For instance, Oakeshott initially describes the "conservative disposition" ("to prefer the familiar to the unknown, the tried to the untried, fact to mystery, the actual to the possible, the limited to the unbounded..." and to maintain "the appearance of continuity" even amid change, *On Being Conservative*, 169, 171) and then explains how this disposition manifests socially and politically: limited government, free economy, liberty, etc. (188 f). "This manner of politics calls for a mood of indifference" (195).

⁸⁰ 80. See, for instance, Heer, *Kons. u. d. Reaktion*, especially 497, 503, 512f, 516, 525.

⁸¹ When this apolitical stance attempts to establish some connection to earthly reality, it sometimes nostalgically recalls the pre-state reality of small agrarian communities, where individuals allegedly found the desired security within the bosom of family and religion.⁸² More programmatic expressions of this nostalgia can be found in affirmations of the value hierarchy of pre-capitalist and pre-industrial societal orders, particularly their Christian elements, alongside rejections of the hubris of technology and human rights—which embody a significant degree of human self-deification. For these conservatives, Christianity and modernity appear fundamentally irreconcilable. When they do engage in politics, it is often only to contribute to the defense against “totalitarianism” from a Christian perspective, while awaiting the inevitable collapse of modernity as the true rebirth of conservatism.⁸³ Even such ostensibly “above politics” positions inevitably reveal their practical allegiance through their engagement in the contemporary struggle against “totalitarianism.” This makes clear the camp in which such “conservatives” ultimately feel at home—when their abstract rhetoric about rejecting modernity does not obligate them to abstain from using telephones or modern medicine. The banal pressures of everyday life weigh heavily, forcing many lofty souls to descend or at least settle in lower regions. This becomes evident among “conservatives” who voice their distrust of technological civilization and its destructive potential while championing the values of old Europe—transcendence, order, and refined intellectuality. Yet they often reconsider and, likely influenced by the ongoing global competition between societal systems, openly embrace the affluent society as the realization of Bentham’s principle of “the greatest happiness of the greatest number.”⁸⁴ The pragmatic result is late-liberal mass consumerism, supplemented by a token nod to environmental conservation.

Conservatives like Mohler, who, unlike those previously mentioned, do not understand conservatism merely as a disposition nor fundamentally question industrial society and the modern world of technology, contribute little to

⁸¹ 81. Franzel, *Versuch*, especially 157E, 168.

⁸² 82. For example, Ullmann, *Der kons. Mensch*, especially 0–92. Ullmann particularly idealizes life in the pre-state communities of southern and eastern Europe.

⁸³ 83. See Zehrer, *Heute wieder zukunftsrichtig*. Strong concerns about modernity and its techno-industrial spirit, perceived as a threat to the “natural-historical development” of humanity synonymous with the “divine order of life,” are also raised by Merkatz (*Kons. Funktion*, especially 43 ff., 67 ff.), who, like Zehrer, aligns closely with Romein’s position (see above, note 2). While Merkatz does not explicitly speak of the collapse of modernity, he too sees the prospects of conservatism in what is allegedly the fading of ideologies today (*a. a. O.*, 81E), without considering that this fading, as it appeared to spread during the 1950s and 1960s can ultimately be traced back to the implementation of that very technical rationality which he specifically seeks to push back for the sake of the “natural-historical development.”

⁸⁴ 84. E.g., Klett, *Kons.*, especially 845 ff, 853.

resolving the dilemmas of (apolitical) conservatism.⁸⁵ Instead, they intensify confusion within conservative circles by presenting new but practically irrelevant theoretical variations, thereby sparking further controversies. In shaping a more impactful conservatism, Mohler proposes two main strategies, as far as his writings are specific and insightful on this matter: the proper channeling of the “monumental need” of humans “to feel secure within overarching orders,” and the fundamental detachment of conservatism from liberal appeals to “freedom” and the “individual,” as well as from liberal economism, in favor of the primacy of the political.⁸⁶ Regarding the first point, it remains vague as long as the specifically conservative nature of the overarching order is undefined. It is well-known that individuals have sought and found security within orders and movements that were never perceived or labeled as conservative. The line between conservative and revolutionary order or security becomes even blurrier when considering that the order envisioned by Mohler evidently still needs to be created. Therefore, it cannot be called conservative primarily because it seeks to preserve something; instead, it will be conservative because it will strive to preserve itself once it exists. Even the “totalitarian” revolutions, which Mohler explicitly distances himself from, aim at nothing other than the perpetual preservation of their creations. Consequently, Moeller van den Bruck’s notion of a “conservative revolution,” which aims to create things worthy of preservation (a notion Mohler, given his forward-looking “conservatism,” must agree with), provides no definitive criteria for distinguishing between a “conservative” and a “totalitarian” revolution, especially as its specific meaning depends entirely on the ambiguous term “worthy.” Regarding the second point, the specifically conservative aspect of Mohler’s proposed primacy of the political is not readily apparent. The subordination of economic considerations to the dictates of the political struggle, for instance, has already been realized by communists since Lenin. Although Marxist historical materialism—due to symbolic reasons—had to remain formally untouched, it was originally strongly influenced by liberal economism and sought to explain political struggle as a function of economic factors in the broadest sense. Beyond this, Mohler fails to clarify the purpose of the primacy of the political or the strong state as its embodiment. Given the modern state’s role as the largest administrator, provider, and distributor, it is reasonable to suspect that strengthening this state could, or even must, gradually lead to the “total state” or “totalitarianism.” Mohler does not consider this aspect, and this is not only due to the lack of logical coherence in his arguments but also because he is evidently unwilling to endorse such a development. Thus, Mohler finds himself equally at a loss with the primacy of the political as other “conservatives” before him, who similarly invoked it without actionable clarity.⁸⁷ Whenever he attempts to make his wishes concrete, he fails to

⁸⁵ 85. *Kons.* 1962, 25, as well as *Von rechts*, 34f.

⁸⁶ 86. *Kons.* 1962, 27, as well as *Von rechts*, 62, 15.

⁸⁷ 87. E.g., Schoeps, *Kons. Erneuerung*, 79–81. Schoeps’ unavoidable liberalism (*malgré soi*)

move beyond ideas that even liberals would fully accept—such as when he, citing R. Aron, sees the task of industrial society as “finding ways of life that reconcile efficiency and liberty.”⁸⁸ The end result is ambiguity and vagueness, lacking even the internal impulse of the “conservative revolution” from the Weimar era.⁸⁹ Moreover, the demand for a strong state renders Mohler’s positions indistinguishable from those of contemporary “conservative” liberalism. Representatives of the neoliberal school, for example, have also advocated for a state that is not merely a plaything in the hands of various pressure groups, so it would not have to succumb to all consumeristic or economic demands.⁹⁰ Others have attempted to underpin this plea for a strong state with (classical) liberal arguments: only a strong state could maintain the separation of state and society, which is vital for liberalism and freedom. By liberating itself from the determining influence of interest groups and thereby becoming less of a welfare state and more of a constitutional state, the state would hold the mass society in check—preventing the merging of state and society, which undermines freedom.⁹¹

From the above discussion, it follows that everything in contemporary “conservatism” that has any connection to reality essentially belongs to (classical) liberal thought, which, since the late 19th century, has included criticism of mass democracy and the welfare state as a natural component. Both the metaphysical-apolitical “conservatism” and the “conservative” critique of the capitalist-economistic bourgeoisie or the culture of mass society in general are intellectual constructs. These constructs often stem from individuals who, due to their intellectual “formation,” find themselves unable to navigate the modern, highly technological world. However, it would be erroneous to conclude that ideological phenomena like contemporary “conservatism,” with its narrow social base, could not achieve broad social impact in the future. Should such a development occur, the currently prevalent “conservative” forms of social and cultural critique would likely be blended, selectively interpreted, modified, or fragmented to fit the needs of the moment—used, above all, according to the law of

becomes evident in the unease displayed on these pages. Regarding the “conservative socialists” à la Wagener, he writes that they “thought from the perspective of the state and advocated its primacy over the economy. In this sense, they were true conservatives.” However, he subsequently agrees with their opponents, who defended the inviolability of private property, and approvingly recounts modern liberal-economic arguments against the welfare state.

⁸⁸ 88. *Von rechts*, 34.

⁸⁹ 89. See the remarks by Maschke, *Ende*.

⁹⁰ 90. Friedrich, *Neo-Lib.*, 512, with references.

⁹¹ 91. This is essentially the argumentation of Forsthoff; see the essay collection *Rechtsstaat im Wandel*, especially 26, 39 ff., 74. Regarding the origin of this view in the intellectual framework of the “conservative revolution,” whose “young conservative” faction anticipated central motifs of neoliberalism, see Chapter IV, Section 3c, particularly note M.

the heterogony of ends, irrespective of the intentions, sympathies, or goals of their originators. This could happen if powerful anti-communist and simultaneously anti-liberal movements were to emerge, willing to exploit the entire existing repertoire of anti-individualist, anti-economistic, and similar ideas to serve their ideological purposes. The practical result of drawing upon the worldview of historical conservatism in today's late-liberal society can only be the denial of the latter. This is evident in examples like "conservatives" such as Eliot or Dawson, who draw inspiration from the Catholic Middle Ages. Their cultural critique leads them not only to equate liberal democracy and modern "totalitarianism" concerning "cultural decline" but even to somewhat favor the latter as a guarantor of hierarchy and collective spirit.⁹² Even those who, in their fight against vulgar materialism, scientism, value relativism, and other aspects of late-liberal mass society, celebrate objectively given value hierarchies or fixed natural law orders will sooner or later find themselves drifting away from liberalism, as concretized in parliamentary and party politics, either internally or politically. Orthodox liberals, who view such constructions and glorifications of the pre-liberal past with suspicion or hostility, sense this inevitability. However, from a scholarly perspective, it would be futile to warn against the "disastrous consequences" of such ideas or to recall the example of the National Socialists' ideological exploitation of the "conservative revolution." Such warnings, like the very ideas they oppose, are the work of intellectuals who understandably tend to overestimate the importance of ideas (and thus their own significance) in history. They assume that if everyone were to think "responsibly," "enemies of freedom" would lack ideological weapons and thus remain silent. In reality, the opposite is true. Certain ideas become politically significant only because a powerful, politically existent entity adopts or creates them. If such a force exists, its ideas—no matter how random or amateurishly constructed—become important overnight and attract widespread attention. To prevent potential beneficiaries of anti-liberal ideas, which today thrive merely within the bounds of intellectual freedom, from becoming powerful, what is primarily required are successes of liberalism on both the domestic and international fronts. Achieving such successes is far more challenging than crafting invulnerable libertarian theories on paper or showcasing impeccable liberal convictions during relatively calm and secure times.⁹³

⁹² 92. On Eliot and Dawson from this perspective, see O'Sullivan, *Cons.*, 134 f. Eliot argues that liberalism must culminate in democracy, which in turn lies closer to totalitarianism than to liberalism (*Idea*, especially 15 f., 19).

⁹³ 93. To complete the current picture, it should be added that the partially positive use of the concept of conservatism by "leftist" or "progressive" critics of industrial growth has only further muddled its clarity. See Grn., *Was heie hier konservativ*, particularly the statements of Eppler, Hasenclever, and Kroetz.

CHAPTER TWO

II. SOCIAL-HISTORICAL CONTENT AND THOUGHT STRUCTURE OF ANTI-ABSOLUTIST CONSERVATISM

II. SOCIAL-HISTORICAL CONTENT AND THOUGHT STRUCTURE OF ANTI-ABSOLUTIST CONSERVATISM

1. Overview

This chapter seeks to demonstrate the internal connections between the social-political realities and intellectual frameworks of the (already threatened) *societas civilis*, which collectively form the prototype of conservatism. It argues that the conservatism later deployed against Enlightenment and Revolution was neither a wholly original creation nor a mere reaction. Instead, it emerged as a reworking and modernization of preexisting elements, shaped both ideologically and conceptually. Conservatism's foundational pillars—such as the primacy of the traditional collective and its embedded, experiential reason over the abstract planning of isolated individuals; the unity of law and ethics within an ontologically grounded political framework; distributive justice and its social-political implications; opposition to the separation of state and society; and resistance to the revolutionary voluntarism and belief in the malleability of human affairs inherent to the modern state—were long established. The Enlightenment simply required these motifs to be translated into its secular language, a process that necessitated further adaptation. By dispelling the erroneous notion that conservatism originated purely as a reaction to the Enlightenment or Revolution, this chapter aims to trace its historical and socio-political roots. It asserts that conservative ideas neither emerge from an abstract intellectual ether nor dissolve into it; they are always tied to specific socio-political circumstances. Even broadly philosophical positions ultimately reflect ideological extrapolations from the social-political stances of conservatism's advocates. Returning to the two or three centuries preceding Enlightenment rationalism reveals that all fundamental conservative positions—despite their later claims to theoretical autonomy in opposing the Enlightenment—originated in very concrete socio-political questions. This

historical perspective sharpens our understanding of conservatism's origins and character. Particularly in response to the modern concept of sovereignty, whose contours and implications were already evident in the 16th century, the traditional ideas of the *societas civilis*—whether of ancient, Germanic, or theological origin—took on the forms that would shape conservative thought well into the 19th century.

This analysis, grounded in the socio-political realities of modernity, reveals essential characteristics of conservatism that would otherwise remain obscure. By studying the historical fortunes of conservatism's carriers, particularly the aristocracy, the fundamental ambiguities that have always accompanied conservative thought and action become apparent. In theory, conservatism's proponents advocate for preserving the *societas civilis* in its purest form, often creating nostalgic utopias that glorify a "golden age" of aristocratic freedom. In practice, however, they rarely shy away from using the superior tools of power provided by the modern state to pursue immediate goals, often without recognizing—or even despite—the long-term detrimental consequences of such unavoidable inconsistencies. Similarly structured and conditioned is the contradiction between their professed adherence to old traditions—imbued with a speculative and idealized life philosophy—and the activism with which they have consistently pursued their tangible interests on all levels and by all means. These unavoidable discrepancies mean that conservatism's self-understanding and practical actions rarely align, leaving it perpetually searching for a resolution to its fractured identity. The idealized image it claims for itself—a pure and noble type—remains unattainable. Instead, conservatism is bound to the dilemmas and compromises of its specific historical contexts, which leave such visible marks on its legacy that its values often seem hollow by comparison. However, this observation is not intended as a moral critique specific to conservatism. The gap between self-presentation and concrete action is a universal phenomenon affecting all socio-political movements and ideologies throughout history, even if the content of those self-presentations and actions varies from case to case.

2. The Legal Concept of the *Societas Civilis* and the Modern Sovereignty Concept in Their Ideological Context

Law is not made and cannot be made at all; it simply exists—this, put in the shortest formula, is the legal conception of the *societas civilis*, from which conservative thought has mainly drawn throughout its history and with which it has perished. That law *is* does not merely mean its empirical existence but its anchoring in the order of being, of which it is both the inner support and the visible manifestation in the realm of the human. Law thus appears as the work—or even the attribute—of a God who is not only omnipotent but also inherently just; and

since God rules over nature and establishes universal harmony, divine and natural law largely coincide. Law permeates creation and resides in the human soul to guide it in shaping its social-political behavior in a sound manner. In its ontological rootedness, law remains untouchable and essentially inviolable, no matter how often individual laws and regulations deriving from it may be disregarded. No human will can overthrow or destroy law itself—that is, as it is rooted in God and nature—because it is simply not a product of human will. Law, as understood by the *societas civilis*, therefore—and this is crucial—has no character of imposition; it is not the work of any sovereign individual, body, or state. On the contrary, these must exist under the aegis of law, represent and defend it, and derive their legitimacy from its good witness.⁹⁴ Thus, all voluntarism and any belief in the constructibility of social institutions based on law are rejected *a limine* (at the outset), at least on the theoretical level being discussed here. In the elaborated scholastic terminology, this rejection of voluntarism takes the form of the thesis that law, as the application of justice, is *rationalis ordinatio*, that is, the ordinance of a universal, supra-personal reason rather than the potentially arbitrary personal will of an individual.⁹⁵ Accordingly, the commanding character of law is denied. The law is not obeyed because it is a command but because it originates from divine-natural law; therefore, obedience to the law can be demanded in the same sense as obedience to God. Divine and natural law were meant to permeate positive law, so that the task of the latter essentially consisted in applying and concretizing higher commands and principles derived from the order of being established by God.⁹⁶ Although it was admittedly recognized that positive law could never achieve the perfection of divine-natural law and thus both had to be sharply distinguished in theory—with the Fall serving as the visible historical marker of the transition from divine-natural to positive law—the interpretative or power-related question constantly arose: how, indeed, did divine-natural law

⁹⁴ 1. Regarding the above, see Lewis, *Medieval Political Ideas*, I, 1ff.; Ullmann, *Medieval Idea of Law*, especially 35ff., 46; Kern, *Recht*, 3, 5; Gierke, *Genossenschaftsrecht*, III, 609.

⁹⁵ 2. 2 For example, Thomas, *Summa*, II-II, qu. 90, art. 4. The same principle was later upheld by scholastics opposing the absolutist tendencies of princes, e.g., Carro, *Soto*, 103ff. The close intertwining of the socio-theoretical thought of (late) scholasticism with central aspects of anti-absolutist conservatism (see Sections 3c and 4b of this chapter) was only possible because the scholastics adhered to the legal conception of the *societas civilis* and independently rationalized it using their conceptual framework. In the form ideologically employed by conservatives, this legal conception constitutes a blend of ancient, Germanic, and theological-scholastic materials. Thus, the identification of ancient or scholastic reminiscences in conservatives of the 16th or 19th centuries should neither surprise nor be regarded as a groundbreaking discovery. For the Platonic, Aristotelian, and Stoic theories of *nomos* as an essential component of world order and ruler over all members of the polity, see the opening chapters of Friedrich, *Philosophy of Law*.

⁹⁶ 3. See, for example, Thomas, *Summa*, I-II, qu. 95, art. 2; Carro, *Soto*, especially 121ff., 179ff.; Suarez, *De legibus*, 1, 3, 18–19, and 3, 21, 10

manifest itself in the *jus gentium*, or how could and should it best manifest itself?⁹⁷ The casuistry that developed in addressing this inexhaustible theoretical and practical question has remained an indispensable element of conservative reasoning overall.

A right rooted in the order of being must be as old as that order itself. Seen this way, age, as an indispensable attribute of valid law, is not merely a quantitative determination but automatically points to the intertwining of law with the order of being, to its ontological quality. Older law is therefore *ipso facto* better than newer law and, unlike what holds in modernity, can and must override it. Tradition, impersonal and overarching, is valued more highly than innovation and personal enactment; it forms the true source of law, as its origins are lost in the immemorial time of a natural state, where no (whether theological or otherwise conceived) fall from grace had yet opened the chasm between human and ontological order that exists today. Law, at least in its ideal form, coincides with the customs of the community, in which God's and nature's will materializes visibly. Custom avoids any decisive influence by the arbitrariness of individuals; it remains the collective work of a collective reason that persists beyond individual generations, processes its experiences, and simultaneously reflects the order of being (in both senses of the term). Custom (*mos, consuetudo*) cannot, in other words, be the product of the enactment of a superior will but rather subjects the will of all individuals. This becomes evident precisely when the concrete needs of everyday life in a community call for decisions that affect the prevailing law. In such cases, new law is not created according to the will of a sovereign authority; instead, the prevailing custom is interpreted to justify a course of action that can address the emergent necessity. The affirmation and development of law, therefore, do not occur through legislation as we understand it today but rather through constant *iuris dictio*, an activity that is better described as judicial than legislative. Since the idea of creating new law is entirely alien, the focus is simply on adjudicating a specific case, remedying a deficiency, or otherwise providing relief based on generally known and deemed immutable principles of law. The steps taken for this purpose, even when they appear to diverge from prevailing practice, are not presented as legal innovations but rather as rediscoveries of the "true meaning" of the law, which may have been lost over time, and as a return to its original sources. This fiction is maintained even when the deviation from previously practiced custom is quite significant. What remains decisive is the intent to act in accordance with tradition in every case and to address practical needs without violating (the idea of) that tradition. The fiction of adhering to old law, even when factually departing from it, was naturally easier to uphold when the change made was accepted by all parties involved. Since, as we will shortly see, the inviolability of well-acquired private rights was among the principles of old law, even significant changes that provoked no complaints about the violation of such rights were not seen as changes but

⁹⁷ 4. Compare Gierke, *Althusius*, 272ff.; Lewis, *Medieval Political Ideas*, I, 11.

rather as confirmations of old law. Thus, life continued while the theory remained unchanged.⁹⁸ It is not difficult to recognize in this practice the basic features of the process for implementing inevitable changes that conservatives later proposed as an alternative to the principles of revolutionary (i.e., tradition-breaking and unilateral) change. However, they overlooked the fact that the no longer extant universal belief in the superiority of old law and the universal will to adhere to it, even fictitiously, were indispensable prerequisites for the successful execution of the aforementioned process.

From the rooting of law in the order of being, it follows not only that it is old but also that it is good. The God- or nature-given law must embody the very idea of justice; as the aforementioned permeation of positive law by divine-natural law implies, every law must be just; otherwise, it cannot be respected as law: on this point, all major theorists of the *societas civilis* have agreed.⁹⁹ Between legality and morality, between law and good custom, no distinction is made here, which in turn means that the separation between the public (as the sphere of legality) and the private (as the sphere of morality), as well as the practical-political superiority of the former over the latter, remains unknown. The "well-acquired" private right, in the perspective of this legal understanding, is absolutely inviolable, as it cannot be overridden by any stronger public law opposed to it. Law, considered in its entirety, does not form a norm standing above individual private rights, independent of or even opposed to them in its abstract purity; rather, it constitutes a structure encompassing and safeguarding all private rights. To the extent that law as such is something more and something other than any particular private right, this only means that law comes into force only when not just some, but all private rights without exception are protected. Every holder of a private right may therefore regard its violation as a breach of law itself and equate the defense of their own legal claims with the defense of law in its eternal validity.¹⁰⁰

It must now be emphatically highlighted and consistently borne in mind to understand the historical essence of conservatism that the entitlement of all community members to invoke the law as a safeguard for their private rights does not imply that private rights are equal simply because they may equally appeal to law and justice. The legal conception of the *societas civilis* remains entirely alien to any idea of equality in the modern sense. Justice, which is indispensable for law worthy of the name, is understood here exclusively as (Aristotelian) *justitia*

⁹⁸ 5. For the content of this paragraph, see Carlyle-Carlyle, *History*, II, 98 ff., 105 ff., 155, III, 46, V, 45; McIlwain, *High Court*, 44 ff.; Lewis, *Med. Pol. Ideas*, I, 4; Kern, *Recht*, 6, 17 ff., 24; Kern, *Gottesgn.*, 128 ff.

⁹⁹ 6. Aristotle, *Nicomachean Ethics*, V, 10, and *Politics*, III, 16; Augustine, *City of God*, XIX, 21; Thomas, *Summa Theologiae*, II-II, q. 96, a. 4; Suarez, *De legibus*, I, 6, 21 and III, 10, 7.

¹⁰⁰ 7. Kern, *Recht*, 7ff, 26, 31; Kern, *Gottesgnadentum*, 123. Brunner considers this identification of every legal claim and every positive law with law and justice itself as the specific feature of the legal conception of the *societas civilis* (*Land*, 148ff).

distributiva, ensuring to each their due. That each is entitled to their own does not mean that everyone may consider the same as their own; even if all may call upon the law and its protection, not all may claim the same rights. Precisely for this reason, rights are private and concrete—they cannot be exchanged or translated into any general, necessarily abstract, normative language, even though their hierarchy is supposed to stand under the aegis of divine-natural law as the supreme norm. The essence of this norm lies precisely in ensuring the theoretical structuring of rights in the form of a hierarchy; law and privilege are by no means mutually exclusive. Thus, the law as a whole can coincide with the hierarchically structured sum of all recognized and factually respected private rights. A fundamental difference between the natural law of the *societas civilis* and that of modernity is that, while in the former, the general norm and existing rights essentially belong together, with rights being able to be understood as privileges, in the latter, the general norm opposes existing rights insofar as they are suspected of being privileges. The general norm in modern natural law is thus conceived and formulated with the aim of excluding privileged treatment *a limine*. Although it can be said that, in part, the modern natural law continues the idea that law is not made but simply is, it is also the case that the now explicit opposition between the supreme norm of natural law and existing (privileged) rights carries the implication that natural law has always existed but has not been realized. Its realization, therefore, requires conscious human will and activity. Thus, even if law need not be created, it must at least be applied. This marks the presence of what, from a conservative perspective, is called modern voluntarism, and it reveals how the notion—often expressed by liberals—of the quasi-idyllic continuity of natural law within the framework of “Western tradition” obscures significant substantive shifts in its historical development. The reason modern natural law is fundamentally different lies in its detachment from *justitia distributiva*, a detachment that, in turn, is at least indirectly connected to the modern concept of sovereignty and thus to the thesis of the law’s constructive character. This will be discussed later in this section.

Under the dominance of the legal conception of the *societas civilis*, every individual could justify their own legal claims by appealing to eternal and universally valid law, yet no one could act as a lawgiver through their own capacity and will. Precisely due to their direct relationship with the law, the powers of the *societas civilis* could and were permitted to obstruct one another, opposing the absolute assertion of power by others with sound ideological reasons and pure legal conscience. Thus, none of these powers could lay claim to the title of sovereign in the modern sense.¹⁰¹ The notion of papal *plenitudo potestatis* and similar ideas, however, has led some researchers to attempt to derive the modern concept of sovereignty from medieval conceptions.¹⁰² Such a derivation is only

¹⁰¹ 8. For an in-depth discussion, see Quaritsch, *Staat*, 44–106. Cf. Brunner, *Land*, 161f.

¹⁰² 9. Primarily Wilks, *Problem*, especially 154ff., 254. Cf. Gierke, *Althusius*, 139ff.

possible if the essence of modern sovereignty is disregarded—that is, if sovereignty is identified merely with factual authority over persons and property, without considering who legitimizes this authority or (theoretically) guarantees it. While the modern sovereign creates the law that legitimizes their authority over persons and property, the Pope, for instance, appeals to divine-natural law, under which the *societas civilis* already stands. Indeed, the fact that the Pope failed to produce a groundbreaking ideological justification for his claim to *plenitudo potestatis* reflects the confinement of his factual authority or power within the traditional limits of the polycentric *societas civilis*. Similarly, the Emperor never entertains the idea of creating new law when opposing the Pope; the theory of the two swords remains sacrosanct, and imperial or royal interventions in the rights and property of the Church are undertaken in the name of *necessitas*.¹⁰³ It would also be mistaken to equate the secularization tendencies in late medieval political theory with the modern concept of sovereignty, even though secular attitudes in the broader anti-church sense contributed to the development of this idea. Initially, however, the focus of secularization tendencies was not directed against the legal conception of the *societas civilis* as such but rather against papal ambitions. For example, the defenders of Philip the Fair primarily directed their largely secular arguments against the *sacerdotium* while ensuring, in theory, that the king's position vis-à-vis his subjects' rights was not excessively strengthened. Only on this basis did Philip secure the support of the estates.¹⁰⁴ Certainly, the newly assimilated Aristotle was also employed by adherents of papal *plenitudo potestatis*, albeit with some concessions. Overall, however, Aristotelian pagan naturalism promoted the secular tendency, allowing the commonwealth to be understood as an autonomous and self-sufficient organism independent of the Church. The combination of this view with the arguments of Philip's defenders produced works such as the *Defensor Pacis*.¹⁰⁵ For our thesis—that there is no automatic theoretical connection between secularization tendencies in the narrower sense and the modern concept of sovereignty—there is also negative evidence from later periods: the establishment of the latter occurred, at least partially, under the banner of divine right.

The opposition between the legal conception of the *societas civilis* and the modern idea of sovereignty becomes evident in the medieval doctrine of the rights and duties of kings. The sharp Aristotelian distinction between king and tyrant became a common theme in medieval political literature because it articulated the traditional Germanic notion that the king should be the guarantor and preserver of the existing law rooted in the divine-natural order of being. The "common good,"

¹⁰³ 10. Wieruszowski, *Vom Imperium*, 165f., 169ff. A statement by Antonius de Butrio succinctly captures the perspective of the *societas civilis* on this matter: "*papa vel imperator non sunt supra ius gentium vel naturale*" (*Consilia*, LXXXII, 25 = 133).

¹⁰⁴ 11. Scholz, *Publizistik*, 110, 216, 325ff., 370, 413; Wieruszowski, *Vom Imperium*, 159f., 162ff.

¹⁰⁵ 12. Scholz, *Publizistik*, 117ff., 450ff. Cf. Ullmann, *Principles*, 237ff.

which the king is tasked with safeguarding, has as little to do with the modern welfare concept as the natural law of the *societas civilis* has with the modern notion of human equality. It is identical to the preservation of law and peace and serves simultaneously as the justification and the limitation of royal power. The king's subordination to the law, solemnly affirmed in the coronation oath, thus signifies that the orders or laws deemed necessary at any given time are not products of the ruler's will as the supreme governing will (incidentally, *lex* and *voluntas* are explicitly distinguished). Instead, they must be made *generali consensu* and cannot claim the status of higher law, as such law can only arise from immemorial customs and the traditionally established communal life. Accordingly, the medieval king has two faces: as the preserver of law and justice, he is appointed by God, enjoys divine grace, and remains above all criticism; as a legislator (within the framework of the law), he is merely *primus inter pares*, a feudal lord whose subjects owe him loyalty only under certain conditions and who must expect open and, indeed, legitimate resistance if he fails to meet these conditions.¹⁰⁶ If resistance is directed only against the king as a feudal lord, and not against him as the bearer of divine right, it is simply because the latter functions as a visible symbol of the higher legal order, against which rebellion is considered inconceivable. The disputes between the king and the other members of the *societas civilis* thus take place on a subordinate level, where the theoretically fundamental is not subject to debate. On the contrary, this fundamental principle is asserted by all parties in lofty terms to justify their actions and goals in the realm of practical power politics. The forces of the *societas civilis*, which oppose the expansion of royal power toward modern sovereignty, emphasize that divine right, given its aforementioned dependence on the legal understanding of the *societas civilis*, must not override the rights of those who do not partake in it. Thus, when it is said that the king as bearer of divine right is *legibus solutus*, as Thomas explains, this can only mean that the king is exempt from the *vis coactiva* (coercive force) but not from the *vis directiva* (directive force) of the law.¹⁰⁷ This point will play an important role in the ideological struggle of conservatives against the sovereignty claims of absolutism well into the 19th century. Equally significant for the centuries-long ideological debate of interest here is the conviction associated with the legal understanding of the *societas civilis* that the king, like any other individual, cannot and must not

¹⁰⁶ 13. For the above, see Aristotle, *Politics*, V, 4 and 10; Merk, *Ged. d. gem. Besten*, especially 460; Gierke, *Genossenschaftsrecht*, III, 562ff; Carlyle-Carlyle, *History*, I, 219ff, 229n, II, 304, 41ff, 125n, V, 37n2 (contrasting *voluntas* and *lex* in Bracton's formulation), 86ff, 468ff; Carlyle, *Political Liberty*, 14, 17; McIlwain, *Growth*, 185ff; Kern, *Recht*, 45ff, 52ff; Kern, *Gottesgn.*, 131f, 141f; Ullmann, *Medieval Idea of Law*, 52ff; Ullmann, *Principles*, 150ff; Quaritsch, *Staat*, 107ff. See also note 82 below.

¹⁰⁷ 14. Summa Theologica, III, question 96, article 5, reply to objection 3. For the medieval use of the formula *princeps legibus solutus*, which, while anti-ecclesiastical, does not correspond to the modern understanding of sovereignty, see Brunner, *Land*, 436f, and compare with Section 3b of this chapter.

create law. Therefore, he is to be regarded not as a legislator but rather as a judge who adapts existing law to current circumstances in light of urgent needs, interpreting it accordingly. The *merum imperium*, which later came to be understood as sovereignty in the modern sense, was originally identical to the higher form of *jurisdictio*.¹⁰⁸ Those who, after the 16th century, continued to refer to the king as the supreme judge did so not to glorify his plenitude of power but, on the contrary, to deny him the modern title of sovereign legislator. The identification of this competition between judicial and legislative functions also sharpens our understanding of the arguments and problems that much later, particularly in connection with the question of the separation of powers, became central. For the separation of powers is closely linked to the modern idea of sovereignty—at least insofar as legislative power, distinct from the others, is defined as the clear sovereign to which judicial and executive powers, despite their independence, are ultimately subordinate. In other words, the powers are separated so that the primacy of the legislature becomes evident. It was precisely with regard to this implication that the separation of powers was opposed by conservatives of the 18th and 19th centuries. This topic, however, shall be revisited.¹⁰⁹

In its ideal type, the modern concept of sovereignty appears, in all central points, as a reversal of the described legal understanding of the *societas civilis*. The decisive rupture concerns the belief in an eternal and immutable law, rooted in an ontological order, which is now replaced by a perspective that is partly historical-relativistic and partly voluntaristic. This transition unfolded in such a way that the idea of divine-natural law, due to its long history and actual influence—including its strong social foundations and deep psychological roots, even among proponents of the new worldview in the 16th and 17th centuries—was not initially attacked openly or directly. Instead, despite lip service to its validity, it was silently sidelined and rendered practically non-binding. Theoretically, this shift was enabled by a sharp distinction between *ius* and *lex*, whereby *ius* as the highest (divinely given) norm remained nominally untouched, while the (human) *lex* became the practically autonomous vehicle of the absolutist will aspiring to sovereignty. Whereas the legal understanding of the *societas civilis* demanded the closest possible interweaving of *ius* and *lex*—that is, the greatest feasible approximation of *lex* to the idea of justice (and thus its validity as *lex*) under the conditions of the Fall—*ius* and *lex* were now viewed less in their interconnectedness and more in their opposition, stemming from the new conception of law as a mere product of a will. This configuration, both ambivalent and revolutionary in its novelty, emerges in Bodin. While he theoretically upholds the old *ius* to avoid the odium of Machiavellianism that would hinder the absolutist agenda and even reiterates traditional platitudes about the “just ruler,” he simultaneously breaks with tradition at its critical point by separating *ius* from

¹⁰⁸ 15. See also Lewis, *Medieval Political Ideas*, Vol. I, 241f; Gilmore, *Argument*, 30, 32

¹⁰⁹ 16. Additionally, refer to Section 3d of this chapter and Chapter III, Section 3b.

lex and defining the latter as a “commandement du souverain” dependent on his “pure et franche volonté.”¹¹⁰ It becomes evident that it is not the formal acknowledgment of *ius* but rather the new conception of law that carries weight, as seen in Bodin’s subordination of customary law to statutory law. This subordination equates to subordinating living tradition to decisive action and dissolving what has slowly evolved and been collectively established through the immediate and autonomous sovereign act. Bodin is keenly aware that *coutume* and *loy* embody two entirely different social-political forces, indeed two opposing life orientations. While the strength of *coutume* lies in duration and consensus, law derives its authority from the power of command. The hallmark of absolute power or sovereignty is the ability to impose laws on subjects without requiring their consent.¹¹¹ By disregarding the will of the subjects and emerging *ex nihilo*, and even “en un moment,” the law also separates itself from the higher concept of justice as understood by the *societas civilis*. The fact that law as a whole has lost its prior status is demonstrated by the claim or practical possibility of the ruler to override laws that his own will has enacted. If the law is a product of imposition rather than an expression—however imperfect—of justice, it cannot bind the one who sets it and thus stands above it.¹¹²

The voluntaristic conviction regarding the malleability of the law, now detached from the old right, gave the formula “*princeps legibus solutus*” a much more drastic meaning than it may have had during the preceding centuries. This shift was reflected, among other things, in the gradual disappearance of the classical distinction between king and tyrant¹¹³ and in the theoretical demise of the right to resistance, which, following the separation of *lex* and *ius* and the practical precedence of the former, lost its legal foundation.¹¹⁴ Although the aforementioned *odium* of Machiavellianism, which the rising absolutism of the 16th and 17th centuries necessarily had to distance itself from, called for restraint, allowing old views to persist even among their factual gravediggers, and although absolutism

¹¹⁰ 17. *Six livres* (1576), 193, and (1583), 133.

¹¹¹ 18. Same source, (1583), 222, 142, and (1576), 197, 199.

¹¹² 19. *Ibid.*, (1583), 444, 132. The notion that the sovereign ruler may override the laws had already gained considerable traction in the first half of the 16th century (characteristic examples in Lemaire, *Lois*, 109 ff; see also Weill, *Théories*, particularly 16 ff). L'Hôpital, who—similar to Bodin—condemns tyranny in the old sense as a violation of the law but simultaneously dismisses the right to resistance, articulated this view at the *États Généraux* of 1560 (Weill, *Théories*, 46 ff., 49). Henry III expressed the same position at Blois in 1576, further establishing a connection between his role as *auteur* of the law and his exemption from its power (Labitte, *Prédicateurs*, 125). The same connection appears in the writings of P. de l'Hommeau (Mousnier, *Vénalité*, 96) and others (Albertini, *Denken*, 48, 49). See Carlyle's remarks on Le Bret (*Polit. Liberty*, 40 ff).

¹¹³ 20. Additionally, refer to Mandt, *Tyrannislehre*, 71 ff.

¹¹⁴ 21. See also Brunner, *Neue Wege*, 170

never historically managed to completely suppress the local powers of the *societas civilis*, a qualitatively new and unprecedented claim unmistakably emerged—connected to new modes of action and objectives. This claim was absolute, refusing to settle for the traditional royal sovereignty, which had been understood as a loose sum of distinct competencies and prerogatives in various domains. The new sovereignty emerged as a singular, unified competence encompassing and even founding all other rights of the ruler. It represented the power to issue commands-laws, as the ultimate and no longer derivable concentration of the ruler's prerogatives and authority. Such sovereign rule could not tolerate any independent center of power alongside itself; the concept, existence, and survival of the state now depended entirely on the unity and exclusivity of sovereignty.¹¹⁵ This unity and exclusivity of sovereignty required, as must be emphasized, the displacement of the judicial function by the legislative function within the ruler's competencies. These were not separate processes but two complementary aspects of the same transformation. The transition from the old conception (royal power as a sum of distinct prerogatives and the king as a judge) to the new one (a singular-unified sovereign authority and the sovereign as legislator) occurred gradually and through sophisticated reinterpretations, but the conceptual *terminus a quo* and *terminus ad quem* are clearly identifiable and can be reconstructed with ideal-typical clarity.¹¹⁶ It must be noted that the displacement of the judicial function by the legislative one does not imply that the new sovereign relinquished the role of interpreting the law. On the contrary, as the creator of the law, the sovereign considered himself uniquely qualified to provide its sole true, valid, and binding interpretation. The act of lawmaking and the knowledge of its deeper meaning were seen as logically and practically intertwined. The interpretative monopoly of the sovereign legislator and creator was intended to put an end to the “feudal anarchy,” which seemed to arise precisely from the fact that everyone could legitimately claim the right to interpret the *ius* of the *societas civilis*, which no one had created and which everyone thus knew equally well—or poorly. Proponents of the new sovereignty pointed out that the uncreated, eternal, and

¹¹⁵ 22. Additionally, Quaritsch, *Staat*, 255 ff, particularly 259, 269.

¹¹⁶ 23. Gilmore (*Argument*, particularly 27 ff., 40 ff., 47 ff., 55 ff., 67 ff., 95, 108) has described how the *merum imperium*, which in the Middle Ages was attributed both to the king or emperor and to the *illustres* and *clarissimi*, was reserved exclusively for the king in France from the early 16th century onward. Initially, it continued to be understood as a judicial rather than a legislative function; later in the 16th century, it was assumed that the *magistratus* derived their *imperium* from the king, who, however, could no longer delegate the right to *condere legem*. Thus, the legislative function, in its exclusivity, came to the forefront. On this transition, see Church, *Const. Thought*, 50 f. Willoweit (*Rechtsgrundlagen*, 121 ff.) also demonstrates effectively how, after the establishment of the modern concept of sovereignty in Germany, territorial authority was no longer understood as *jurisdictio* but rather as commanding *superioritas* (*summa potestas, majestas*), extending over all territorial subjects.

immutable nature of the law granted it no absolute binding power in practice, as anyone could twist and turn it according to their preferences and needs.¹¹⁷ For this reason, they placed the question of interpretation at the forefront, resolving it theoretically by identifying the creator of the law with its interpreter. When they spoke of interpretation, however, they clearly meant something entirely different from the kind undertaken by the king-judge in relation to eternal law.

From the modern idea of sovereignty, a specific socio-political model can be derived, one that is as incompatible with the constitution of the *societas civilis* as the belief in the malleability of law is with the conviction of the ontological rootedness and immutability of justice. By considering the logical and historical consequences of the modern concept of sovereignty, we outline the shape and essential features of the adversary against which conservatives fought to the bitter end. Let us summarize these consequences: **a)** If the law—separated from justice in its older sense—is malleable, then it no longer serves as a guarantee of preservation but rather becomes an instrument for reform or even revolution. Its malleability stems from its dependence on the will of the sovereign, a will that is recognizable precisely in its deviation from the collective will or traditional life of the community—otherwise, defining the law in relation to this will would be redundant and meaningless. Historically, this is evidenced by the fact that the theory of the malleability of law emerged alongside and as a justification for absolutist reformist ambitions. A sovereign will that creates laws stands ipso facto in opposition to customary law, as compliance with the latter would render the creation of sovereign laws unnecessary. The desire to create sovereign law, therefore, inherently implies a wish to reshape the historical existence of mankind to some extent. Ultimately, the sovereign in the fully modern sense of the term is one who steps onto the stage as a "demiurge" of history, seeking to shape history according to their own plans and ideas. Consequently, history is no longer a preordained and completed cycle within the eternal order of being but an open and dynamic movement. **b)** If the sovereign is one who takes commands from none but can command all without exception,¹¹⁸ this implies the abolition of personal dependency in governance, which was characteristic of the *societas civilis*. Individuals who lived within the extended household (*oikos*) and were directly subject to its head according to the self-evident norms of traditional rule now fall under the immediate jurisdiction and control of the sovereign. They are governed by the sovereign's will and law, to which even the head of the *oikos* must now submit. In place of a social pyramid, where each level was directly dependent only on the one immediately above it, there emerges a flat plane where all individuals

¹¹⁷ 24. See Hobbes, *De Cive*, XII, § 4. This argument also appears in the pamphlet literature of the 17th century. As an anonymous writer stated in 1652: "To say that the law will have this absolute power is an error, since in all disputes, everyone alleges and interprets the law in their own way" (quoted in Doolin, *Fronde*, 102; Kossmann, *Fronde*, 13).

¹¹⁸ 25. According to Bodin's definition, *Six livres* (1576), 232.

stand, equal at least in the sense that the sovereign can command them all directly—thus, all are directly subject to the state. The unified and exclusive legislative authority, or the monopolization of state power, results in two outcomes. First, the abolition of rule in the form of personal dependency makes equality among individuals a prerequisite for governance. If all are directly subject to the state, then the sovereign's laws apply equally to all. Rights and privileges are now mutually exclusive, and if anyone enjoys a privilege, it is not due to their own right but through the exclusive privilege of the sovereign to grant privileges. Thus, privilege now serves to affirm rather than limit sovereign power. Second, for sovereignty to be all-encompassing, it must reach and command every individual. Consequently, it fragments society into formally independent individuals and conceptualizes the social whole as merely the sum of these individuals—quantitatively, rather than qualitatively. The individual is thus discovered and, along with equality, is glorified as a value in itself. However, while individualism and freedom must be presented by the new ideology as heralds of human emancipation in its struggle against the old order, they in fact constitute only the necessary historical preconditions for all forms of governance founded on the modern concept of sovereignty. **c)** If sovereignty is to emerge as the ultimate authority and secure legitimacy and deeper loyalty, it must simultaneously elevate the entity it governs—the state, whose powers it monopolizes—to the highest purpose, at least on Earth. *Raison d'État* implies that everything undertaken by the sovereign must serve exclusively to preserve the state as the supreme earthly purpose. Consequently, the unity of religion or morality and politics, which was central to the legal understanding of the *societas civilis*, dissolves. Anyone advocating for the restoration of that unity in the future essentially wishes for the abolition of modern sovereignty. It must also be clear that any call to subject the state to religion, with its concrete social implications, amounts to a return to theologically sanctioned *justitia distributiva*. The invocation of religion or the unity of ethics and politics against modern sovereignty has another, albeit related, basis. If the modern sovereign state, operating autonomously and asserting itself as the highest purpose, demands the submission of all individuals to its decrees while freeing itself from the dictates of ethics or religion, it can secure the obedience of all, including the faithful, only by separating the private from the public—i.e., by distinguishing moral-religious conviction from outwardly visible conduct. While the *societas civilis* was socio-politically polycentric and ethically-religiously or ideologically unified, the modern sovereign state, as the author of universally binding legislation, is politically unified and—at least in a certain phase of its development—ethically-religiously polycentric, that is, tolerant. **d)** The separation of the sovereign state from the ethical-religious worldview of the *societas civilis*, precisely for the sake of forming and maintaining its sovereignty, results in a general shift of priorities toward the secular. In particular, the sovereign state legitimizes itself to its subjects through its promise to ensure peace and welfare. A eudaimonistic attitude emerges, often intertwined with the individualism also

promoted by the sovereign state. This marks the germ of liberalism, which, while opposing absolutism, does not—as must be emphasized—oppose the modern sovereign state as such, even though it is not politically and socially identical with it for all time.

In the model just outlined, all the political possibilities of modernity—and thus all possible enemies of conservatism—are contained. It is only on the foundation of the modern concept of sovereignty that absolutism and liberalism, (social) democracy, and dictatorship (of every shade and orientation) take shape—at least insofar as they all presuppose the direct subordination of all individuals to the state, as well as the unity and exclusivity of sovereign power, either directly or indirectly. Their differences do not lie in this foundation but in their respective understandings of the scope of competence and the manner of origin and legitimization of this sovereign power. To grasp the historical content and essence of conservatism, however, it is necessary not only to acknowledge this but also to recognize that the modern concept of sovereignty constitutes a component or aspect of a broader ideological complex, which began to manifest itself multidimensionally in the 16th century. As mentioned earlier, the transition to a voluntaristic attitude and decision-oriented activism, accompanied by the tacit or open rejection of the speculative-passive submission to the inherited conception of social and existential order, is a fundamental corollary of the sovereignty idea. Without revisiting the unproductive question of which domain the decisive shifts and restructurings first occurred, which subsequently set the entire societal structure in motion, we aim here to briefly demonstrate the simultaneous presence of the same thought structure and worldview across multiple levels, in order to make comprehensible the full scope of the challenge that conservatism, as a continuation of the intellectual traditions of the *societas civilis*, suddenly faced. **a)** Initially, the activism of the modern concept of sovereignty finds its counterpart in the realm of social and political thought itself, specifically in the overturning of the traditional notion that leisure and speculative life are to be valued more highly than manual labor. This perspective, which had been given philosophical and anthropological grounding in antiquity by Plato and Aristotle, was modified by Christianity's significant elevation of labor. However, the old hierarchy remained untouched insofar as Christianity also saw the highest fulfillment of humanity in the speculative elevation of the soul to God. In the 16th century, a systematic defense of manual labor began to emerge against the accusation that it was a vulgar occupation or the work of the vulgar. This defense was partly voiced by individuals engaged in manual labor who now took pride in it;¹¹⁹ it expressed not only an egalitarian concern but also the growing desire to actively shape reality, thereby perceiving it as mutable and capable of change. Thus, the new valuation of

¹¹⁹ 26. General references in Rossi, *Filosofi*, pp. 17, 27ff., 61, 63. Rossi also cites the most important literature on the history of the valuation of labor and its transformation in the 16th century.

labor articulated the new primacy of the *vita activa* over the *vita speculativa*. **b)** This changed attitude toward labor and the *vita activa* corresponds structurally, on a cosmological level, to the replacement of the primacy of rest with the primacy of motion. The necessity of this correspondence arises from the intrinsic connection between the ideal of the speculative life and the thesis of the superior rank of rest or the immovable and immutable in the Aristotelian and Christian worldview. Consequently, the denial of the former had to coincide with the rejection of the latter. Speculation culminated in the intellectual apprehension of God or life in God, who was himself unchanging and thus immovable, even as he set the world in motion and sustained it. The inversion of this perspective posits that action constitutes the true sphere of human fulfillment, just as the world is shaped by eternal motion that perpetuates itself. Now, motion literally encompasses the entire cosmos, engulfing the immovable celestial sphere that, in the ancient-Christian cosmos, stood above the sublunary realm of becoming and decay.¹²⁰ Thus, the traditional order of being collapsed in the same way and at the same time under the blows of movement, as the old law, anchored in this same order of being, retreated before the activism of the new doctrine of sovereignty, which sees law—and therefore also society and history—as mutable and transformable. **c)** The conviction of the law's malleability, and of human affairs in general, developed alongside a thorough revision of Aristotle's understanding of the relationship between art and nature. While, for Aristotle, art could only produce a necessarily imperfect imitation, it was now assumed that nature could be fully reconstructed or even replaced by art.¹²¹ Compared to natural products, artificial ones seemed to hold the advantage of being fully known in every detail and therefore entirely controllable. Creation, knowledge, and mastery appeared interconnected, and the principle *verum factum convertuntur* (truth and creation are interchangeable) was confirmed.¹²² We recall that the interpretation of the law was only regarded as truly binding and indisputable when the interpreter and creator of the law were united in one person. **d)** Finally, it is necessary to highlight the fundamental structural similarity between the collapse of cosmic hierarchies and the unification of the universe through the Renaissance's natural philosophy and later mathematical natural sciences, on the one hand, and the (at least potential) leveling of the social order of the *societas civilis* by the modern concept of sovereignty, on the other, which recognizes only individuals in order to encompass them all and command them. Just as the unification of the universe became possible only through the dominance of a quantitative perspective—given that the previous cosmic hierarchy was based in no small part on the qualitative distinction between the celestial and

¹²⁰ 27. For the new theory of motion and its effects, see Kondylis, *Aufklärung*, especially pp. 107ff., 236.

¹²¹ 28. Examples in Rossi, *Filosofi*, pp. 139ff.

¹²² 29. For the dissemination of this principle in the early modern period, see in detail Kondylis, *Metaphysikkritik*, Chapter I, Section 2a, and Chapter III, Section 1.

sublunary spheres—so, too, did the reduction of subjects to mere “headcount” (as 19th-century conservatives bitterly remarked) or summable individuals eliminate all differences in rank.

After this analysis, the meaning of our thesis should be clear: Conservatism is the reaction to the modern principle of sovereignty and its ideological and socio-political consequences. It should be emphasized once again that this reaction did not create a conservative theory *ex nihilo* but instead ideologically expressed itself through a recourse to the ideas of the *societas civilis* and their purposeful adaptation or modification.

3. The Struggle of the *Societas Civilis* Against Modern Sovereignty

a. The Nobility, the State, and the Ambiguities of Conservatism

In the first section of this chapter, the key ambiguities characterizing the historical essence of conservatism were briefly mentioned: a theoretical adherence to the ideal of the *societas civilis*—that is, the autonomy of the *oikos* and the hierarchical human relationships associated with it—while simultaneously attempting to use the more effective means of power offered by the modern state to achieve tactical goals or secure strategic positions; and the invocation of an eternal order of being, of which the existing social order is supposed to be a reflection, coupled with activism whenever decisive action becomes necessary and feasible. To these fundamental ambiguities, a subordinate and formal one was soon added: the use of secular or (slightly later) Enlightenment language to defend the worldview and legal principles of the *societas civilis*—language which, in its entanglement with corresponding content, was originally directed against precisely those principles. If these ambiguities are left unmentioned and unexplained, it becomes nearly impossible to historically and concretely understand what later came to be referred to as the transformation of conservatism into reaction, or even certain conservative positions (such as the evaluation of “feudalism” and the “Middle Ages”). While the substantive and formal ambiguities of conservatism emerge with full drama during its confrontation with the liberal and democratic revolutions, they existed from the very beginning and were not mere intellectual curiosities. Rather, they were rooted in the necessarily ambivalent attitude of the nobility toward modern sovereign statehood. This attitude can generally be described as follows: the nobility fundamentally adhered to the legal principles of the *societas civilis*, but at the same time, it had to fill positions in the emerging state apparatus primarily from its own ranks and therefore, in various ways, became intertwined with the state's fate. This development was unavoidable precisely because the nobility remained by far the most powerful and cohesive social group, entitled to the lion's share in the distribution of new offices and honors. Furthermore, because the nobility, which resisted the autonomy of the state, was bound by feudal loyalties to the very driver of this autonomy—the absolutist ruler. In a certain sense, the nobility fell victim to

its own traditional strength and traditionalist mindset. It reconciled itself, at least partially, to the ongoing dissolution of its existential foundation—the *societas civilis*—as long as it believed it could maintain at least partial control over what would later prove to be the vehicle of this dissolution: the state. Moreover, since the nobility—surely not unjustifiably, given pre-state social reality—equated the existence of the *societas civilis* with its own dominance, it partially deceived itself into believing that its, as it would later turn out, temporary dominance within the newly emerged state could be interpreted as the preservation of the old *societas civilis*. This illusion was reinforced by the fact that the agrarian-economic foundation of the latter remained largely intact for a long time.

The relationship between the nobility and the emerging sovereign state varied from country to country, and its specific form significantly influenced the overall character of the respective state. It is even conceivable that a typology of states could be developed based on this relationship. For now, however, our interest lies not in the specific outcomes of the interactions between nobility and state but in the dynamics of these interactions—their fluctuations, paradoxes, and constants. Throughout the pre-revolutionary era, the demands of the nobility concerning the appointment to state offices remained constant to the point of monotony. These demands are evident in the *Cahiers de Noblesse*, in declarations from various estates across multiple countries, and in the programmatic statements of individual nobles with broader political ambitions. The emerging court and state chancery of the prince, often composed of *hominibus novis*—and, as frequently suspected, *novarum rerum cupidis*—aroused the greatest mistrust. This institution symbolized the young state's claim to independence from the *societas civilis* and its essential opposition to the traditional hierarchy of bloodlines and thus to the traditional legal order as a whole. The nobility aimed not only to exclusively surround the prince and thereby exert direct influence on his decisions but also to claim all (significant) state and ecclesiastical offices (sometimes even control of city administrations). Beyond this, they expected non-noble officials to be subordinated to noble ones, which effectively undermined the revolutionary-egalitarian principle associated with the sovereign state and its bureaucracy, in favor of the traditional hierarchical order. The ideal vision of the nobility remained the self-governing *oikos*. However, to the extent that the young state apparatus visibly limited this self-governance or deprived it of its broad foundation, the noble response typically did not take the form of mere defense of traditional rule and lifestyle. Instead, it often involved asserting dominance over what threatened tradition—namely, the state apparatus itself. What the nobility lost in self-governance, they sought to reclaim by conquering positions within the new state offices. While they clung theoretically and uncompromisingly to their traditional, well-established, and legitimate rights, their practical concern often lay in converting this theoretical inflexibility into tangible gains within the emerging state order. This tendency was reinforced by the realization that holding an office ensured social advancement, even for members of the old nobility. For their part, princes distributed state offices to

nobles not merely because they had to consider the nobility primarily but also to play nobles against each other and thereby weaken the overall socio-political position of the nobility. Perhaps even more crucially, the prince, through the distribution of offices, did not simply compensate the nobility for their loss of traditional power but rather confirmed and sealed that loss. By presenting the distribution of offices as a free act of his sovereignty, he underscored this point. Nonetheless, in some cases, the political subjugation of the nobility coincided with the strengthening of their position within the state apparatus.¹²³

Thus, the assertion of the considerable power of the nobility within the new state does not contradict the thesis that, under absolutist rule, the nobility would enjoy a legal and social, rather than a political, privileged position—¹²⁴reflecting the separation between the state (in relation to which all are equal) and society (within which inequality is possible or even natural). However, the matter has another dimension that threatens to overshadow or reverse this newly established separation, which initially secures the sovereignty of the state. In exchange for its political submission and its (self-serving) service to the state, the nobility receives (albeit now significantly limited) independence in the local sphere of the *oikos*. Thus, the nobility participates in the development of the state at the higher level, provided that it is allowed to obstruct this same development at another, ostensibly subordinate, level. The ambivalence intensifies when noble local self-governance assumes state responsibilities—that is, it continues to function personally and technically as before but now operates in the name of the state. In this way, a compromise is reached between the persistent organizational weakness of the young state apparatus, which cannot yet encompass all it desires to, and the nobility's claim to preserve its traditional privileges. Even entire estates-based institutions could be incorporated as serving components of the bureaucratic state.¹²⁵ From today's perspective, using ideal-typical classifications, this phenomenon appears as a peculiar hybrid, a grotesque fusion of two fundamentally different directions: the state seeks to absorb the feudal-noble structure by assigning it state tasks, while the nobility aims to counterbalance the expansion of state power by becoming its vehicle and thus blunting its revolutionary edge. When this succeeds, as it often did, the political subjugation of the nobility becomes largely nominal,

¹²³ 30. For the content of this paragraph, see Oestreich, *Geist*, 219 ff; Gerhard, *Aufsätze*, 75 ff; Hayden, *France*, 183 ff; Petit, *Assemblée*, 217 ff; Uhlhorn, *Solms*, 155 ff; Marcks, *Coligny*, 228 ff; Picot, *Histoire*, II, 273 ff, II, 208 ff, 319, 447 ff, IV, 149 ff, 276; Aylmer, *King's Servants*, 256 ff; Lieberich, *Landherren*, 95; Heinrich, *Adel*, 299 ff.

¹²⁴ 31. So Hintze, "Staat," 49. Ford (*Robe*, Chapter I) struggles to classify absolutist policies toward the nobility clearly; instead, they leave a confusing impression. Nonetheless, even the absolutists of the 17th century were aware of the distinction between social privileges and the political alignment of the nobility. Regarding figures like Le Bret, see Sée, *Idées*, 75.

¹²⁵ 32. For this phenomenon in 17th- and 18th-century Austria, see Hintze, *Staat*, particularly pages 354, 331, 327, and 325.

allowing the nobility to believe in the possibility of preserving its privileges even under the conditions of modern statehood. This blend of motives and tendencies can be studied in phenomena like the sale of offices. Here, the focus is not on the disputes between the nobility and the bourgeoisie triggered by this practice but rather on the underlying perception of office: although an office is inherently tied to the state and granted by the prince as the highest bearer of state power, it is simultaneously regarded as a well-established right in the sense of the traditional legal order. Consequently, its holder could even resist the state if they felt disadvantaged.¹²⁶ It was precisely these unpredictable circumstances that the *intendant* and the *commissarius* were supposed to resolve.¹²⁷ Nevertheless, the absolutist state, even until its end, failed to replace this coexistence and overlap of rights, powers, and forms of rule with a unified administrative practice based on a comprehensive concept. Although its officials operated across the entire country, they often had to stop short of local jurisdictions or law enforcement, preventing the state from penetrating deeper.¹²⁸

The (partial) survival of the *societas civilis* within the early modern state paradoxically facilitated the (partial) integration of the nobility into it. This resulted in the nobility gradually becoming accustomed to viewing its own problems as state problems, expecting or demanding their resolution from the state, and adjusting its stance toward the state based on how these problems were addressed. A glance at the reform plans of conservatives such as Fénelon or Saint-Simon, for example, shows that these plans were attempts to place the power of absolutism in the service of a nobility which, in its current state, admittedly could no longer sustain itself as a ruling class without administrative assistance. These conservative reformers were *ligueurs* or *frondeurs* only in a limited sense; Saint-Simon even exhibited "absolutist" sympathies insofar as he placed little hope in the revival of institutions like the *États Généraux* and regarded an absolute monarch surrounded by high-ranking noble advisors and acting according to their proposals as a far more effective instrument for securing the interests of the nobility.¹²⁹ Thus, the privileges of the nobility no longer appeared as rooted in an eternal-natural order but rather in an administrative framework, although the ideological fictions of the *societas civilis* were not entirely eradicated or forgotten. The early tendency to secure noble privileges and dominion through the administrative means of the absolutist state must be particularly emphasized, as it foreshadowed, in a nutshell,

¹²⁶ 33. See Mousnier's remarks in: Aston (ed.), *Crisis*, 97. Mousnier also skillfully highlights the ambivalent character of the court as a center of concentrated princely power, on the one hand, and a stage for estate-aristocratic intrigue, on the other.

¹²⁷ 34. Mousnier, *Vénalité*, 666ff.; see also Bonney, *Political Change*, particularly 298ff., 442, 86.

¹²⁸ 35. According to a phrase by Raumer, *Abs. Staat*, 70, 77. See Gehring's depiction of France in the 18th century in *Weg*, 26.

¹²⁹ 36. For a summary, see Gallouédec-Genuys, *Prince*, 194ff., and Sée, *Idées*, 241ff.

the later transformation of counterrevolutionary conservatism into reaction and dictatorship. At the time, the nobility, indulging in this tendency, did not feel that it would involve them in an insurmountable and potentially fatal contradiction between means and ends. This was not only due to the suppression of the problem by convenient rationalizations typical in such cases but also because their entanglement with the state apparatus or the court led to a redirection or reinterpretation of "feudal" values and behaviors in line with new realities. For instance, the harnessing of the absolutist state for the nobility's purposes could be interpreted as a revival of the traditional, deeper community of interest between the king (as the *primus* among nobles) and his peers, just as the submission of the nobility to the absolutist monarch was previously often facilitated by the influence of feudal loyalties. The multifaceted phenomenon—historically and sociologically significant—of channeling "feudally" motivated energy into the paths shaped by the state, along with the consequent repurposing of this energy, can be studied in part through the mentality of that segment of the nobility which constituted the bulk and backbone of the officer corps, especially in the cavalry. The modern cavalry had military tasks that did not align with those of knighthood, as they were dictated by the logic of modern warfare, primarily shaped by the dominant role of infantry. Nevertheless, noble cavalry officers lived for centuries with the illusion that they were continuing the martial and moral traditions of knighthood.¹³⁰ However, the general ambivalence in the relationship between the nobility and the state was evident even here. Not only were modern institutions imbued with a "feudal" spirit, but the spirit emanating from modern institutions also influenced and shaped areas of life that remained outside the (direct) reach of the state, continuing to serve as pillars of the *societas civilis*.¹³¹

The entanglement of significant parts of the nobility with the nascent state apparatus—which was an objective carrier of a new hierarchy of values and way of life—led to a partial, albeit often indirect and incomplete, secularization of noble worldviews. Consequently, the Christian foundation of chivalric lifestyle and virtue gradually faded. A similar effect ultimately resulted from the open conflict between the nobility and the Catholic Church during the redistribution of ecclesiastical landholdings in the Reformation. Although noble (and princely) claims were initially justified on Lutheran or Calvinist grounds, they contributed to this secularization. The antagonism between absolutist monarchy and the nobility

¹³⁰ 37. See Wohlfeil, *Adel*, particularly pp. 214 ff., 224, 227.

¹³¹ 38. An extreme example of this is the Prussian transfer of the military ethos to estate management. On this, as well as the broader socio-historical framework that made it possible, see Büsch, *Militärssystem*, particularly pp. 71 ff., 161 ff. For the convergence of bureaucracy and nobility in Prussia, despite continuing differences in attitudes and values, see Rosenberg, *Bureaucracy*, pp. 16 ff., particularly pp. 121 ff. On the social dominance of the nobility in the German armies of the 18th century, see Demeter, *Offizierkorps*, Chapter I. Compare with Speier, *Militarism*, particularly pp. 309 ff.

did not prevent their collaboration in the partial expropriation of Church lands. On the contrary, this collaboration eased tensions, at least temporarily, providing a reprieve welcomed by all parties, even if disputes over the distribution of spoils ignited new grievances and struggles. In the 13th and 14th centuries, the estates had allied with national monarchies against papal claims over the temporal assets of local churches, as the nobility felt displaced by the Pope's "foreign" representatives and excluded from the enjoyment of clerical benefices.¹³² By the 16th century, the economic and political crises afflicting, for example, the French nobility had both fostered and amplified anticlerical tendencies within its ranks. These manifested theologically in sympathies for Lutheranism or Calvinism and socially in demands for the confiscation of Church property.¹³³ The secularization of clerical lands benefited the nobility not only in England but also in other countries, while simultaneously reducing the clergy's political influence.¹³⁴ Secularization often served princely interests under the guise of Luther's doctrine of the common good, though this rationale could not directly justify noble claims since the care for the common welfare was not (explicitly) their concern. Consequently, in some instances, the nobility resorted to violence and church looting to secure a share of the spoils.¹³⁵ However, fear of princely dominance was seemingly never so strong as to incite a consistent noble defense of ecclesiastical or papal political and property rights. In both the 16th and early 19th centuries, the nobility sacrificed core positions of the *societas civilis* to their immediate interests. Even the most extreme noble opponents of absolutism supported directing the revenue from the sale of Church properties—regardless of whether purchased by nobles or not—into princely coffers, hoping that the long-term financial self-sufficiency of the monarch would obviate the need to tax the nobility.¹³⁶ In times of need, the nobility sought aid from the clergy, but such aid was not readily given, despite the close personal connections between the two estates.¹³⁷ Only the alignment of concrete material interests could spur joint action against absolutist policies.¹³⁸ The psychological and ideological alienation between the nobility and

¹³² 39. Wieruszowski, *Vom Imperium*, 201 ff. The urgency of the problem even in the 16th century is evident in the use Francis I made of the Concordat of Bologna (1516); see Edelstein, *Social Origins*, especially 381.

¹³³ 40. Salmon, *Crisis*, 123 ff.

¹³⁴ 41. On Prussia, for example, see Heinrich, *Adel*, 273f, and Haß, *Kurm. Stände*, II, 176. On the English development, see Section 5 of this chapter.

¹³⁵ 42. Lehnert, *Reform. u. Kirchengut*, 130.

¹³⁶ 43. Sturmberger, *Tschernembl*, 347, 355, 360.

¹³⁷ 44. For example, during the Fronde, see Lassaigue, *Revendications*, 274; Blet, *Clergé*, II, 82.

¹³⁸ 45. So, for example, on the eve of the French Revolution, see Heinrichs, *Ideol. d. Klerus*, especially 484, 111 ff, 136 ff.

clergy sometimes assumed overt forms, particularly when the Catholic Church, in its efforts to protect its interests against Protestantism, supported absolutist monarchs under certain circumstances. This is evident in figures such as Saint-Simon or Boulainvilliers, who rejected the notion of the clergy having independent political rights.¹³⁹ Boulainvilliers' freethinking stance, in particular, vividly symbolizes the internal detachment of numerous nobles from Christian ecclesiastical culture, even as they simultaneously attempted to construct somewhat coherent anti-absolutist conservative ideas.

Positions like those of Boulainvilliers cannot be understood solely through the conditioned opposition between nobility and church; they also presuppose an additional factor of secularization. This factor is modern education, which made its way into the ranks of the nobility during the 16th and 17th centuries. The reason the nobility sought to acquire it lay in their effort to maintain their social standing under the conditions created by the expansion of the modern state. At least the most astute and adaptable nobles soon realized that the "noble" and "virtuous" man in the old sense now also had to be educated to serve the state or "his king" as an ambassador, advisor, governor, judge, or officer.¹⁴⁰ This realization was also aided by the growing competition from the *homines novi*, who often came from the bourgeoisie. While on the one hand, the nobility lamented the displacement of courage and virtue by cunning or wealth, on the other hand, they increasingly recognized within their circles that their members had to be educated to remain competitive. It even happened that nobles, in their fight against the sale of offices, employed meritocratic arguments, emphasizing not their lineage but rather their education and other abilities over the wealthier non-noble candidates for state offices.¹⁴¹ The vibrant life at court also exposed the nobility to competition from non-nobles, and by demanding and encouraging the development of all kinds of individual skills, it promoted meritocratic thinking even among the nobility.¹⁴² The secular education meant to prepare the nobility for state service was fundamentally legal in nature but was also imbued with humanism, as Latin was both a part of contemporary state life and a bridge to the rediscovered ancient literature and philosophy. Additionally, studying at foreign universities provided opportunities to learn modern foreign languages and engage with the profane Renaissance literature. Nobles interested in new agrarian methods needed to possess scientific knowledge.¹⁴³ Traditional or reformed religiosity, of course, did not entirely fall by

¹³⁹ 46. References in Barzun, *French Race*, 144, 153; Boulainvilliers, *Histoire*, III, 202 ff. See also below notes 64 and 65.

¹⁴⁰ 47. Hexter, *Education*, 64.

¹⁴¹ 48. Bitton, *Nobility*, Chapter III; Mousnier, *Vénalité*, 619 ff.

¹⁴² 49. See Lieberich, *Landherren*, 97.

¹⁴³ 50. Marcks, *Coligny*, 2084; Brickner, *Staatswiss.*, 102ff; Brunner, *Neue Wege*, 285ff; Sturmberger, *Tschernembl*, 32ff, 254ff; Krollmann (ed.), *Selbstbiographie*, 2ff; Thomson, *Life*, 262ff; Lee, *Ideal*, 854ff; Walser, *Span. Zentral.*, 194ff; Brunner, *Adliges Landleben*, 189ff.

the wayside, but the nobility was no longer—or not exclusively—dependent on theological terminology to articulate their socio-political concerns. As we must reiterate, this was crucial for adapting the ideas of the *societas civilis* to meet conservative needs from the 16th to the 19th century.

To complete our schematic overview of the relationship between the nobility and the emerging modern state, particularly in its significance for shaping modern conservatism, it should be noted that the nobility's occupation of most, and usually the most important, state offices did not grant it any lasting or complete reassurance. Certainly, this contributed significantly to keeping its reactions in check, raising and sustaining its hopes, and secularizing its worldview. On the other hand, it constantly reminded the nobility that inherited privilege alone was insufficient to secure its social dominance, which often had to be arduously fought for—especially as the size and composition of the nobility increasingly became a matter of princely policy. The result, as is well known, was the long-term opening of the nobility's ranks to non-nobles and an increase in the number of nobles, which led to the impoverishment of many among them. In recent decades, as part of an ideologically motivated effort to idealize the aristocratic-patrician past,¹⁴⁴ it has been repeatedly argued—particularly regarding France's pre-revolutionary development—that the social mobility observed within the *ancien régime* ruled out the possibility of an aristocratic reaction as a negative cause of the revolution.¹⁴⁵ This, however, represents a double misunderstanding. Firstly, the fact of social mobility under the *ancien régime* (regardless of its actual extent) does not *ipso facto* preclude the existence of an 'aristocratic reaction'; rather, this fact may just as well indicate that the aristocratic reaction simply failed. Secondly, this aristocratic reaction was in fact provoked by the very social mobility that further endangered the position of the established nobility, which was struggling to maintain its exclusivity and privileges. The new nobles were therefore not seen as welcome

¹⁴⁴ 51. More on this in section 3d of this chapter.

¹⁴⁵ 52. For example, Goodwin (*Social Structure*, especially 358-361) attempts to refute Palmer's thesis of an aristocratic reaction before 1789. However, Palmer does not attribute the aristocratic reaction to the strict and insurmountable separation of the estates but, on the contrary, to the fact that there were enough points of contact between them to create difficulties (*Zeitalter*, 97). Similarly, Gruder seeks to demonstrate that society in the *ancien régime* was by no means 'closed and fixed' and that, therefore, there could be no question of an aristocratic reaction (*Intendants*, 180, 205f). She points to the doubling of the number of nobles between 1715 and 1789, as well as the increasing share of *novi homines* among the *intendants* in the period before 1789 (168ff, 175, 177ff, 188ff). The significance of new *annoblissements* with regard to a profound rejuvenation of the nobility is considerably relativized—and not without some good reasons—by Reinhard (*Elite*, 29ff; cf. Weis, *Franz. Adel*, 30ff). Egret (*Arist. Parlem.*, passim) notes the admission of *hommes nouveaux* into the ranks of the parliamentary aristocracy toward the end of the *ancien régime*. Nevertheless, this did not represent a permanently open avenue for social mobility. Furthermore, by that time, the fusion of *robe* and *épée* had already been completed. See Bluche, *Magistrats*, especially 303ff, 371ff, 380ff, and Ford, *Robe*, Chapter XI.

reinforcements but, on the contrary, as competitors for the increasingly scarce rewards of the state or court. While *mésalliances* were tacitly tolerated to save nobles from bankruptcy, the nobility fundamentally remained opposed to any perceptible expansion of its ranks; complaints and warnings on this issue were never lacking.¹⁴⁶ Even the occasional admission of new members to the noble class did not create lasting relief or social balance, as the boundary between nobles and non-nobles would close again after each ennoblement. This allowed individuals to cross the boundary, but only in such a way as to remind those left behind of the boundary's existence even more starkly. Together, these factors created a rather unstable and insecure situation in which the established nobles lived in fear of having to share their privileges with newcomers, while the aspirants, faced with the sharpness of social demarcations, were left to hope until the last moment for the realization of their ambitions. The very fact of social mobility, coupled with the persistence of class prejudices and corresponding behaviors, generated tension—leading to both reaction and counterreaction.

Conservative thought takes shape across all the overlapping and intersecting social and historical levels we have outlined. Its aspects, nuances, variations, and fluctuations are not intellectual oddities or self-contained ideal entities; instead, they correspond to the complex and multifaceted relationship between the nobility and the emerging state with its increasingly assertive claim to sovereignty. The internal division of the nobility into often competing factions and groups (a significant aspect of social history, though one that could not be accounted for in our schematic reconstruction) further complicated and contradicted this relationship. The hybrid nature of the absolutist state—namely, the fact that, by its essence, it had to leave the local, living seeds of the *societas civilis*, especially the *oikos*, largely intact, even as it entangled them in a novel web of domination—explains the relative tepidity of conservative thought in its anti-absolutist form. It was not yet a matter of all or nothing, as it would be after 1789. This difference in intensity, however, does not alter the identity of its content. Even before 1789, the core ideas of the *societas civilis*'s legal philosophy were employed in service of the conservative cause, but they were modified and simultaneously secularized. This happened as the nobility, on the one hand, fought for the survival of the *societas civilis*, while, on the other hand—sometimes at the expense of the Church—tying its fate to that of the state. In other words, the nobility existed both outside and within the state. To the extent that it was outside, it adhered to the ideology of the *societas civilis*. However, to the extent that it was within the state, it reshaped and secularized this ideology, influenced by the state's behavioral and ideological patterns, which ultimately originated from the nobility itself. The political actions possible within this spectrum range from accommodation and demands for pragmatic reforms in a conservative sense to

¹⁴⁶ 53. References are provided in Carré, *Noblesse*, 154-156. For more on *mésalliances*, see p. 55.

rebellion and conservative reaction.

b. Legitimate and Illegitimate Absolutism

The enduring influence of the legal philosophy of the *societas civilis* into the 18th and 19th centuries is demonstrated, among other things, by the consistent invocation of the principle by conservatives that the king, by the nature of his office, is the highest judge.¹⁴⁷ As we know, this principle implied that the king—precisely in his role as the *lex animata*—could not create laws arbitrarily but could only apply them and, in doing so (but only in doing so), potentially interpret and thereby further develop them. Those who, following the explicit formulation of the modern concept of sovereignty in the mid-16th century, placed special emphasis on this principle typically intended to signal their opposition to the voluntaristic conception of law and the accompanying redefinition of the nature and function of kingship. This opposition could stem from Germanic, ancient Aristotelian, or scholastic inspiration. The continuity of the intellectual motives is evident, for instance, in the use of this principle by late scholastics, who directly referenced Thomas Aquinas during the same period when Molina characteristically wrote that the presumption that kings sought to expand their power over their intimidated subjects by force was, in cases of doubt, far more plausible than the notion that subjects sought to curtail the power granted to kings.¹⁴⁸ For example, Soto described the king as the highest judge and contrasted this role directly with modern sovereignty, noting that a judge-king could not pardon a criminal merely because he was *legibus solutus* (exempt from the law) but only with the goal of promoting the *bonum publicum* (common good), to which all his actions were bound.¹⁴⁹ Similarly, Mariana regarded *ius dicendum* (dispensing justice)—alongside waging war (*bellum gerendum*) and appointing magistrates (*magistratus creandi*)—as fundamental prerogatives of the king.¹⁵⁰ He understood this to mean that the king could rule on the basis of established, traditional law and adapt or interpret it as necessary, but could not violate it. Reverence for the customs and institutions of the ancestors (*moris patrii institutorumque reverentia*) must always guide his behavior, and since he is *legibus solutus non est* (not exempt from the laws), his exemption applies only insofar as he must address urgent tasks or avert immediate crises.¹⁵¹ As we will see, this medieval distinction forms the foundation of the later opposition between legitimate and illegitimate absolutism. For Mariana, the king's prerogative to dispense justice is not a limitation but, on

¹⁴⁷ 54. Section 2 of this chapter.

¹⁴⁸ 55. De just., II, 23 = I, 118B.

¹⁴⁹ 56. De just., V, 4,4 = f. 158r. (above). Similar: Brutus, Vindiciae, III = 150 f.

¹⁵⁰ 57. De rege, I, 8 = p. 92.

¹⁵¹ 58. De rege, I, 9 = pp. 101, 99.

the contrary, a justification for his demand that the king be subject to traditional law. Unlike the more or less apolitical appeals of other late scholastics to abstract natural law, Mariana saw this law as concretely anchored in the Spanish Cortes,¹⁵² the large estate assemblies, which, in his view, could convene even without the king's knowledge and were meant to realize his political ideal—what he called “aristocracy”—in practice.¹⁵³

Mariana articulated his ideal uncompromisingly, even though he was aware of the already advanced decline of estate-based and aristocratic institutions. Most other late scholastics, however, tended to acknowledge the factual increase in absolutist power, granting it legislative and administrative rights that were already often practically established, while simultaneously striving to preserve the traditional conceptual framework intact.¹⁵⁴ The extent to which each individual was willing to recognize the political realities created by the rise of absolutism was reflected in the debates of the 16th and 17th centuries about whether royal power derived from God or the “people,” and what (inalienable) rights the “people” retained after delegating or conceding power to the monarchy in varying degrees.¹⁵⁵ Since we aim here to illustrate the persistence of the *societas civilis* legal perspective using examples from the Catholic sphere, it should also be noted that the confessional conflict, which had reached its peak at the time, often influenced attitudes toward this issue. The frequent inclination of the nobility in the 16th century to align themselves with Protestantism of various stripes in opposition to Catholic monarchs must have led Catholic clergy—otherwise aligned with the *societas civilis* in its ecclesiastical form—to ally with these monarchs depending on the practical exigencies of the situation. Emperor Ferdinand II's Restitution Edict of 1629 demonstrates clearly the utility of such alliances. These clergy manipulated the sufficiently flexible scholastic social-theoretical framework to justify the tactical strengthening of the monarchy without explicitly abandoning fundamentally anti-absolutist positions, which needed to be kept in reserve for more challenging times. The Jesuit Contzen, confessor to Maximilian of Bavaria, exemplifies this tendency. While he generally adhered to the traditional scholastic view of the origin of state power and did not endorse the idea of a directly God-given sovereignty, he nonetheless associated the prince with God whenever possible, recognized his territorial authority and legislative competence, denied the right of resistance, and sharply reduced the role of estates. However, he could not accept that the prince was *legibus solutus* and continued to derive positive law—despite its elevated importance—from the divine-natural *ius*, binding the prince to a series of

¹⁵² 59. Hamilton, *Pol. Thought*, 41.

¹⁵³ 60. *De rege*, I, 8, especially pp. 88f, 96f, and I, 2 = pp. 33f.

¹⁵⁴ 61. Cf. Sanchez Agesta, *Concepto del Estado*, especially 135 ff, 149 ff.

¹⁵⁵ 62. On these controversies, see section 4b of this chapter.

moral precepts drawn from both scholastic politics and humanist literature.¹⁵⁶ Additionally, Contzen argued that not exclusively or primarily nobles, but capable men in general, should hold sway at court.¹⁵⁷ This demand perhaps reflected the ambitions of *self-made men* like many Jesuits, seeking to transcend the predetermined boundaries of estate while theoretically advocating for their maintenance. More certainly, it expressed distrust in the nobility's religious reliability—specifically their intentions regarding church lands. Thus, we return to the conflict between the nobility and the church discussed in the previous section. These are not merely incidental remarks by an individual; Mariana, for example, also advocated for open access to high offices for all "virtuous" individuals and pondered the long-term safeguarding of the church's independence, warning that the nobility might at any time turn to heresy and ignite internal strife (*bellum intestinum*)¹⁵⁸.

Although confessional considerations influenced the reformulation and reaffirmation of the legal understanding of the *societas civilis* in various ways from the 16th century onward, the conservative structures of thought remained more or less stable. These structures were not exclusively theological-scholastic but also significantly derived from ancient and Germanic traditions. Thus, they proved paradoxically superior to religious conflicts, as they could serve all religious parties depending on the needs of specific polemical contexts.¹⁵⁹ This adaptability persisted until after the French Revolution, when an — by no means universally accepted — connection between "true" conservatism and Catholicism, along with a rejection of the supposed revolutionary spirit of Protestantism, began to be assumed. The blending of the theological-scholastic version of the legal understanding of the *societas civilis* with other versions was facilitated not only by increasing secularization but also by the shared pressure on all versions to account for the new realities of power politics and redirect the energies of rising absolutism toward conservative objectives. This phenomenon is not first encountered among late scholastics who sought to erect dams against the Protestant flood but already among conservatives of the 16th century who were more concerned with social issues than confessional ones. Within Seyssel's moderate, harmonizing framework, a significant recognition of the inviolability and factual power of the monarchy is accompanied by a demand to bind it to the three traditional "freins" of *police*, *justice*, and *religion*. Seyssel argues that the divine authority of the king primarily concerns his role as a judge tasked with upholding *justitia distributiva* along with its

¹⁵⁶ 63. Seils, *Staatslehre*, 72ff., 123ff. The conservative and harmonizing function of the humanist state ideal has been very well elaborated by Hinrichs, *Fürstenlehre*, particularly 120ff., 126f., 328.

¹⁵⁷ 64. Seils, *Staatslehre*, 135. Already Ribadeneyra, *Tratado*, II, 6 = particularly pp. 246ff.

¹⁵⁸ 65. *De rege*, III, 2. 1, 10 (= p. 113).

¹⁵⁹ 66. See also below, section 3c.

concrete manifestations in *libertés, privilèges, and louables coutumes*.¹⁶⁰ This framework was later taken up in 1570 by Du Haillan.¹⁶¹ Similarly, Coquille, who nostalgically longed for the good old days before Louis XI and extensively recapitulated the principles of the *societas civilis*, did not dispute the particular rights and competencies of *majesté royale*.¹⁶² For Coquille, it was clear that the king was fundamentally a judge who could not alter the law;¹⁶³ his special competencies had to unfold within a pre-existing legal framework and were meant to defend traditional law in exceptional circumstances. The monarchomachian position similarly maintained that the king was simply *supremus regni officarius, curator, or administrator Reipublicae*, bound by laws (*legibus restrictus*) rather than above them (*legibus solutus*)¹⁶⁴. Understandably, the monarchomachs were reluctant to enumerate the king's specific competencies in detail, but the recognition of such powers did little to alter the conservative conclusions drawn from their arguments. This became evident during the Fronde, whose rudimentary and unoriginal political ideology challenged the now-strengthened monarchy far less fundamentally than the monarchomachs had. Nevertheless, the Fronde's ideology rested on the principle that the sovereign's will was not inherently equivalent to the law.¹⁶⁵ Joly reminded his readers that kings were originally judges to support his view that their *pouvoir* was "limited and finite."¹⁶⁶ Pamphleteers emphasized that even if the king stood above positive law, he was still subject to divine-natural laws.¹⁶⁷ In this ambivalent position, they unconsciously encapsulated the aristocracy's ambivalent attitude toward the modern state. Building on this political tradition, Fénelon also referred to the king as the "first judge" and *loi vivante*,¹⁶⁸ drawing from this the demand that the king should submit to the law he himself upheld and defended.¹⁶⁹ Although Fénelon granted legislative functions to the king, he primarily envisioned him as the *défenseur des lois*, since good law, in his view, was ultimately the work of God and not an *invention de l'esprit humain*. He sought to resolve this inherent contradiction by positing the existence of two types

¹⁶⁰ 67. *Monarchie de France*, I, 8–11 and II, 15 = pp. 1134, 117, 150.

¹⁶¹ 68. Caprariis, *Propaganda*, 310ff.

¹⁶² 69. Lemaire, *Lois*, 145. Various aspects of Coquille's conservative views are discussed in the 4th section of this chapter.

¹⁶³ 70. *Institutions*, II, 2 = p. 2. 7

¹⁶⁴ 71. References in Landmann, *Souveränitätsbegriff*, 23 f.

¹⁶⁵ 72. Doolin, *Fronde*, xii.

¹⁶⁶ 73. Sée, *Idées*, 110, 112.

¹⁶⁷ 74. Doolin, *Fronde*, 114; Moreau, *Bibliographie*, I, 339.

¹⁶⁸ 75. *Examen de Conscience sur les Devoirs de Royauté*, I, § VII = OC, VII, 86.

¹⁶⁹ 76. *Dialogue des Morts*, XVII = OC, VI, 257; cf. *Aventures de Télémaque*, XVII and XVIII = OC, VI, 547, 561.

of laws: the eternally valid divine laws and those created by the king to maintain *ordre* in the state.¹⁷⁰ In this way, both the persistence of the legal understanding of the *societas civilis* and the pragmatic consideration of the king's de facto functions appeared to be secured.

For centuries, voluntaristic interventions in the structure of the *societas civilis* were opposed with such arguments. Just one year before the outbreak of the French Revolution, the Paris Parliament countered the royal reform plans with the following assertion: "Le Roi n'a point de volonté; la loi est faite, elle doit décider; il est le premier juge."¹⁷¹ This late yet classically formulated restatement of the legal understanding of the *societas civilis* encapsulates a series of similar claims made during the constitutional conflicts in France in the four or five decades before 1789. One aspect of the anti-absolutist arguments presented at the time deserves particular attention here. It was not disputed that the king possessed full and indivisible legislative power or that his *autorité souveraine* was, in general, complete and indivisible.¹⁷² However, this fundamental assumption did not prevent the opponents of absolutism from making the validity of royal laws contingent on the approval of the "people," who were to participate equally in the *formation des lois*. While the laws expressed the king's *volonté souveraine*, they were also the *vœu libre de la nation*, since "le Roi, l'État et la loi forment un tout inséparable." It followed that laws were not merely the product of royal authority but also its precondition and foundation, as the king's power was rooted in upholding the laws.¹⁷³ It is difficult to avoid the impression that these statements are internally contradictory, as it is not immediately apparent how a legislator whose sovereignty is described as "full" and "indivisible" can simultaneously be subject to the will of the "people." However, the paradox is resolved when we set aside the modern concept of sovereignty and recognize that new words are being used to outline an old reality, stripping them of their radical implications through their unproblematic or "innocent" use. In other words, the king is calmly called "sovereign" here because it is a *limine* considered unthinkable for him to be sovereign in the modern sense. The laws he enacts, therefore, do not disrupt the traditional distribution of socio-political power within the state but rather affirm or, at most, adjust it to new circumstances and broadly recognized needs, ensuring their approval by the main beneficiaries of that distribution. This is the meaning of the "people's" involvement in legislation. Precisely because the modern idea of sovereignty is entirely excluded, this involvement (which pertains more to the purpose than the process) is taken for granted, thereby precluding any notion of modern separation of

¹⁷⁰ 77. Gallouédec-Genuys, *Prince*, 158 ff.

¹⁷¹ 78. Remonstrance of 11–13 April 1788 = Flammermont, III, 740.

¹⁷² 79. See, for example, the remonstrance of 29 May 1759 = Flammermont, II, 184; compare the numerous references in Bickart, *Parlements*, 70 ff.

¹⁷³ 80. See, for example, the remonstrances of 9 April 1753, 27 November 1755, 22 August 1756, and 24 June 1763 = Flammermont, I, 608; II, 35, 146, 137, 342.

powers. If the (estate-based) parliaments had known and endorsed the modern concept of sovereignty, they would have had to claim it for themselves rather than leave it to a hostile absolutist king. In that case, the parliament would have assumed the legislative role, relegating the king to the executive. Thus, paradoxically yet logically, the king remains involved in the legislative process (in the sense of creating laws that, as Fénelon's quoted expression suggests, address the *ordre* rather than the law as the essence of the existing socio-political arrangements) precisely because the modern concept of sovereignty is entirely set aside. This modern notion would necessarily end the collaboration between king and "people" in favor of one side or the other and would further imply that the legislative power could enact laws that overturn the existing legal framework. Thus, even in opposing absolutism, the defenders of the *societas civilis* had to remain loyal to the monarchy, as they envisioned it.

The ambivalent development characterized, on the one hand, by the attempt to fundamentally bind the king to the judicial function and thus to the legal understanding of the *societas civilis*, and, on the other hand, by the need to account for the new power-political reality brought about by the rise of absolutism, can be traced conceptually through the use of the terms "absolute" and "sovereign." The starting point here is the original understanding of the *societas civilis* regarding the sense in which the absoluteness of kingship could rightly be discussed. According to this view, the king's competencies are limited, but within these predetermined boundaries, they remain unrestricted, i.e., absolute. This means that the king's power is absolute within the scope of his competencies, which are defined in the spirit of the general legal understanding of the *societas civilis* and thus pertain more to judicial and administrative as well as military (external) and order-establishing or order-maintaining (internal) functions rather than to legislative ones (at least in the sense of the modern idea of sovereignty)¹⁷⁴. From the perspective of Aristotle's distinction between king and tyrant, which was promptly adopted and disseminated in the Middle Ages,¹⁷⁵ it can therefore be said that the king may be absolute only as a king and becomes a tyrant precisely when he seeks to act absolutely beyond the clearly defined scope of his royal competencies. This is how Belluga thought in 16th-century Spain when he granted the king *absoluta potestas* without thereby endangering the traditional privileges of the nobility,¹⁷⁶ as well as Suarez slightly later, who described royal sovereignty as *suprema in suo ordine*, i.e., absolute within its limits.¹⁷⁷ Naturally, even those who regarded the king as the highest judge conceded that he was absolute in this relative sense.¹⁷⁸ In

¹⁷⁴ 81. Mellwain, *Growth*, especially 364 ff.

¹⁷⁵ 82. Jaszi-Lewis, *Against the Tyrant*, 21 ff; see also note 13.

¹⁷⁶ 83. Sanchez Agesta, *Concepto del Estado*, 96 f.

¹⁷⁷ 84. Def. fid., 3, 5, 12.

¹⁷⁸ 85. So Seyssel, see Church, *Const. Thought*, 224

17th-century England, the term “absolute” was used within the traditional distinction between king and tyrant, serving as a counter-concept to “seigneurial” or “signorial,” which, as early as Bodin, referred to “tyrannical” rule.¹⁷⁹ As the term “absolute” increasingly came to designate modern sovereign rule,¹⁸⁰ conservatives were compelled to argue that territorial sovereignty should not be exercised “absolutely” but that *imperium* essentially meant *jura ducalia* with limited exercise rights.¹⁸¹ Nonetheless, the traditional use of “absolute” did not entirely die out. It was now used to signify that, in times of emergency, the king already possessed absolute power, with the approval of the “people,” making it unnecessary for him to become absolute in the negative (new) sense to fulfill his high duties. Such arguments, presented, for example, during the Fronde,¹⁸² were defensive in nature, as they implied a forced acknowledgment of the already established power of absolutism. Bossuet’s position remained fundamentally defensive, even though his front line was comparatively more advanced. The earlier observation that his absolutism, for instance, was fundamentally different from Hobbesian absolutism and represented an accommodation with the factual power of kingship to tame it in accordance with the higher divine-natural law,¹⁸³ is confirmed by the fact that Bossuet places the traditional distinction between absolute and arbitrary rule at the center of his politics, where “absolute” is to mean: bound to God and the law.¹⁸⁴ It is noteworthy that a conservative like Fénelon, who was far less willing than Bossuet to accept the factual power of kingship, also reverted to this distinction. If *pouvoir arbitraire* was nothing other than an expression of a *volonté despotique*, then

¹⁷⁹ 86. Bodin, *Six livres* (1583), 243. During the Fronde, “despotique” and “seigneurial” were also used synonymously, see Moreau (ed.), *Mazarinades*, I, 387, cf. 400. On the contrast between *potestas absoluta* and *potestas ordinaria* in England (and on the Continent), see Oakley, *Jacobite Pol. Theol.*, especially 329. Smith intended the “absolute power of a king (*xayPactAe(a)*),” which he already distinguished from “tyranny,” to apply only in wartime: “in time of peace, the same is verie dangerous” (*Rep. Angl.*, I, 8 = p. 7).

¹⁸⁰ 87. Examples in Thuau, *Raison*, 392 ff; cf. Petersohn, *Fiirstenmacht*, 59, 80, 175, 181.

¹⁸¹ 88. Back, *Herzog*, 184.

¹⁸² 89. Doolin, *Fronde*, 64ff. Kossmann (*Fronde*, 17) overlooks the fact that monarchists and aristocratic conservatives meant two completely different things when they spoke of the absolute monarchy, leading him to conclude that both sides essentially shared the same constitutional principles. He also misunderstands the entirely different meaning of divine-right kingship for each of the two factions (see below in this section). However, the Frondeurs were aware of the new sense of “absolute” (“la puissance absolue doit estre reietée,” Moreau [ed.], *Mazarinades*, II, 464), as were Richelieu’s earlier opponents, who accused him of striving for *pouvoir absolu* or *puissance absolue* (references in Bailey, *Writers*, 419, note 128).

¹⁸³ 90. See the excellent analysis by Lemaire, *Lois*, 181 ff.

¹⁸⁴ 91. *Politique*, VIII, Art. 2, Prop. 1 = OC, IX, 318.

pouvoir absolu must simply be understood as a *puissance qui juge en dernier ressort*.¹⁸⁵ Thus, in the good old sense, the king is absolute already in his capacity as the highest judge.

The use of terms like “souverain” and “souveraineté” developed analogously. It was, of course, tempting to vent frustration over the declarations and actions of absolutism through pejorative statements about the (modern) concept of sovereignty, equating it outright with tyranny, as Prussian nobles did during the time of the Great Elector.¹⁸⁶ In many cases, however, it seemed tactically wiser to infuse the already current and widespread term with traditional content, thereby serving the old cause with modern tools. Early on, terms such as “maiestas,” used synonymously with “souveraineté,” were reserved exclusively for “good” and “just” monarchs.¹⁸⁷ During the Fronde, sovereignty was repeatedly and deliberately equated with upholding customary law; an anonymous writer stated: “La souveraineté de nos Rois est de faire justice... La souveraineté est absolue, lorsqu’il s’agit de l’exécution de la loi...”¹⁸⁸ A similar tactic was broadly followed by the Parisian Parlement in the 18th century. Sovereignty was described as *le plus ferme appui de la liberté* of the subjects, as it was subjected to the *lois fondamentales* and therefore directly opposed to despotism.¹⁸⁹ The classical contrast between king and tyrant always loomed in the background.¹⁹⁰ At times, the term “souverain” was stripped of its absolutist connotation by being used neutrally, as a technical term simply to denote the king as such, who, in the conservative view, was entirely bound by the law.¹⁹¹ Finally, there were specific reasons that made thought and language concerning sovereignty ambiguous. One such reason in the German context was the structure of the Empire, where the imperial estates had to invoke the legal principles of the *societas civilis* against the emperor while simultaneously demanding obedience from their own subjects based on the modern principle of sovereignty. As a result, the territorial estates could use the very arguments against their own sovereigns that those sovereigns employed against the emperor’s claims.

¹⁸⁵ 92. *Essai philos. sur le gouvern. civil*, V = OC, VII, 110; emphasis mine.

¹⁸⁶ 93. See Schwerin’s reports from 9, 8, and 2 October 1661 = *Urkunden und Actenstücke*, XV, 552, 596. Dobersinsky, on the contrary, urged the Elector to consolidate his ‘Souveraineté’ (letter from 8 February 1662 = XV, 733, 736, 738).

¹⁸⁷ 94. Sanchez Agesta, *Concepto del Estado*, 81 ff, especially 88.

¹⁸⁸ 95. *Véritables Maximes* (1652), quoted in Gehring, *Weg*, 109ff. Cf. Doolin, *Fronde*, 136.

¹⁸⁹ 96. Remonstrance of 25 January 1753 = Flammermont, I, 523f. Cf. Bickart, *Parlements*, 23, 29f. Even Boulainvilliers referred to the king as ‘souverain absolu’ in the old sense, *Histoire*, I, 100.

¹⁹⁰ 97. It was also widespread during the Fronde (Moreau [ed.], *Mazarinades*, I, 387 ff) and significantly influenced Montesquieu’s thought, as Carcassonne demonstrated (*Montesquieu*, 65 ff). It is noteworthy that Montesquieu’s tripartite division of constitutional forms differs from Aristotle’s precisely in emphasizing the contrast between monarchy and despotism.

¹⁹¹ 98. Refer to the sentence by Massillon from 1718, cited by Carcassonne (*Montesquieu*, 4f).

The debate over the meaning of divine right reflects the same opposing perspectives that underlie the ambivalence in the use of terms like “absolute” and “sovereign” or “sovereignty.” The newer absolutist concept of divine right was, as is well known, an attempt to reinterpret traditionally Christian elements of the legal understanding of the *societas civilis* in such a way that they could serve the modern state and, more broadly, secularization.¹⁹³ This attempt was not only practically necessary and tactically expedient in light of the still-undiminished power of both Christianity and this legal understanding but also psychologically relieving for reformers. Through divine right, the monarch’s authority was theoretically reinforced in such a way that it allowed for the suppression of aristocratic opposition on the very grounds of their own, albeit unarticulated, principles. Divine right justified the command for obedience while also implying that the king, by definition, could not be a tyrant in the malevolent sense meant by the opposition.¹⁹⁴ In this regard, divine right was politically more effective for the absolute monarch than, for example, an outright embrace of Machiavellianism. Like any ideology, divine right served a dual function: concealing and advancing interests, with the advancement occurring precisely through concealment. Here, the concealment worked in favor of the absolutist ruler, just as recalling the difference between the new and the old divine right served the interests of his opponents. This difference was real and profound. While the divine right in the legal understanding of the *societas civilis* represented merely one aspect of a general belief that the existing social order as a whole was divinely ordained—hence attributing divine right to the king insofar as he symbolized and protected this order—the absolutist version of divine right rested on the (implicit) acceptance of the modern principle of sovereignty. This marked a reversal of the traditional relationship between the existing order and the monarch’s will. Moreover, in the legal understanding of the *societas civilis*, there was no contradiction between the belief that law originated from God and the equally important conviction that it originated (also) from “the people,” particularly since not only royal authority but all forms of governance were seen as God-given. The contradiction emerged only when it was assumed that the king’s divine right was not inherently tied to maintaining the legal order of the *societas civilis*. In this case, the rights of “the people” were transformed primarily into rights of resistance, while the practical essence of the king’s divine right was reduced to a command for unconditional obedience. As a result, defenders of the *societas civilis* were compelled to reject the absolutist reinterpretation of divine right (as notably happened during the *Etats*

¹⁹² 99. See Link (*Herrschaftsordnung*, 87), Back (*Herzog*, 143), and compare Uhlhorn (*Solms*, 153f). Refer also to the description of the situation by Pitter (*Histor. Entwicklung*, II, 168f).

¹⁹³ 100. Figgis (*Divine Right*, 259f, 246).

¹⁹⁴ 101. See also Section 4b of this chapter.

Généraux of 1614)¹⁹⁵ while simultaneously invoking the older version to ideologically disarm absolutism—just as absolutism aimed to ideologically disarm its opposition by presenting its power politics in the traditional guise of direct appeal to God. The older version of divine right was defended by two distinct factions whose arguments nominally aligned, though their underlying interests and intentions did not always or necessarily coincide. On the one hand, there were ultramontanes who drew on late scholastics like Suarez or Bellarmine and understood divine right primarily as the church's sanction of all the ruler's actions—effectively subjecting the ruler to the pope as the visible guarantor of his submission to God's laws.¹⁹⁶ On the other hand, there was the aristocratic opposition, which, adhering to the fundamental principles of the *societas civilis*, emphasized that the monarch, precisely because of his divine mission, had to act not arbitrarily but in accordance with divine commandments and thus with traditional law. This was articulated clearly during the *Fronde* and vividly expressed in the declaration of the Prussian estates on January 13, 1663,¹⁹⁷ which stated that while the oaths taken at the king's accession were directed solely to God, they nevertheless had the effect "that the high authority, which the subjects cannot admonish, must nonetheless look to and fear the mighty hand of Almighty God."¹⁹⁸

The renunciation of the right to resistance, as hinted at in this formulation, highlights the power shifts that shaped the ambivalence of the conservative attitude toward the monarchy and the linguistic oscillations described earlier. In France, the strengthening of absolutism, which necessitated theoretical adjustments, was evident as early as the mid-16th century. Both noble-led confessional parties deemed it wise to act in the name of the "well-understood" interests of the monarchy,¹⁹⁹ even if the intensity of their conflict occasionally prevented strict adherence to this principle. Ultramontanes and Protestants later adopted similar approaches, though often entangled in nearly insoluble theoretical and practical dilemmas.²⁰⁰

The Fronde, despite its fundamental caution toward the monarchy, contributed to the further consolidation of monarchist sentiment—or at least to the

¹⁹⁵ 102. Details, arguments, and texts can be found in Picot, *Histoire*, III, 360, 513.

¹⁹⁶ 103. References are provided by Thuau, *Raison*, 104f, 112, 114.

¹⁹⁷ 104. Additional examples appear in Moreau (ed.), *Mazarinades*, I, 279, 387, 390, 426, as well as in Moreau, *Bibliographie*, I, 12.

¹⁹⁸ 105. Further documentation is available in *Urkunden und Actenstücke*, XVI, 343. See also Seckendorff, *Christ.*, II, 6, § 6: "God's grace strengthens the authority's power and reputation against the subjects, but also reminds them of their duty." Similarly, Hooker, *Eccl. Laws*, VIII, 2, 6 = *Works*, III, 346.

¹⁹⁹ 106. Caprariis, *Propaganda*, 100.

²⁰⁰ 107. Interesting details can be found in Stankiewicz, *Politics*, 67 ff., 83 ff.; Albertini, *Denken*, 97 ff.; Puaux, *Défenseurs*, 13, 24. See also Mesnard, *Essor*, 383 ff.

acknowledgment of the necessity for an effective monarchy—among conservatives like Retz and Fénelon.²⁰¹ This shift cannot be attributed solely to fear of the growing material power of absolutism or despair over the catastrophic consequences of the religious wars for the nobility. A different factor must be considered foremost: the peasant uprisings and revolts that erupted in the 16th century—not only in France but elsewhere—with almost unparalleled frequency and force; the analogous popular rebellions that coincided with or intersected the Fronde; and phenomena such as the radical tendencies of a faction of the Catholic League. These events likely convinced broad segments of the upper class that royal authority, even with significant absolutist elements, was preferable to social anarchy.²⁰²

Fénelon encapsulated the resigned mood that had gripped the nobility in his time when he wrote that the despotism of the mob was no less dangerous than that of the monarch.²⁰³ In light of such dangers, Fénelon was willing to grant legislative power to the monarchy to the extent necessary to maintain order. He described supreme power as “un pouvoir d’empêcher les desordres et les violences, soit du dehors, soit du dedans, qui pourraient détruire la société.”²⁰⁴ This perspective aligns well with the broader ambivalence encountered across various levels of life and action among the defenders of the *societas civilis*.

c. The right of resistance and conservative activism

The debate over “conservative activism” might seem puzzling if one clings to the view—disproved earlier in this work—that conservatism is primarily a psychological or anthropological disposition rather than a set of principles tied to specific social and historical contexts. If conservatism is seen merely as a passive stance, positioned as the antithesis of revolutionary activity, it becomes difficult to reconcile it with activism in any form. However, if conservatism is defined by its connection to a specific content—its commitment to defending the principles of a traditional order—then “conservative activism” can describe the energetic and often intense actions undertaken to protect that order. History provides ample evidence of defenders of the traditional order employing highly active methods to achieve their goals. In terms of conservatism as an ideological framework, it must

²⁰¹ 108. Regarding this, see Stankiewicz, *Politics*, particularly 143; Sée, *Idées*, 90, 102 ff.; Kotowitsch, *Staatstheorien*, 82 ff.; Tréca, *Doctrines*, 79 ff.

²⁰² 109. Lacour-Gayet, *L'éducation*, 192 ff.; Salmon, *Crisis*, 291 (cf. 277 on the class-based nature of peasant uprisings, which often overshadowed confessional differences among the insurgents).

²⁰³ 110. *Supplément à l'examen de conscience*, II = OC, VII, 101; see also *Essai philosophique sur le gouvernement civil*, VI and X = OC, VII, 111 ff., 118. Even Seckendorff had not forgotten the Anabaptists and all rebellious peasants, e.g., *Christ.*, II, 6–7 = p. 211 ff.

²⁰⁴ 111. *Essai philosophique sur le gouvernement civil*, XI = OC, VII, 123; cf. Gallouédec-Genuys, *Prince*, 94 ff.

be emphasized that such militant behavior was not purely instinctual or solely the result of pragmatic calculations. Rather, it was grounded in the legal principles of the *societas civilis*, offering both ideological justification and moral foundation. The concept of the feud and its transformation into the right of resistance attest to the fundamental compatibility—even interdependence—of conservatism, understood as the defense of the *societas civilis*, with active struggle. These concepts sanction the use of (nearly) any means, provided there is a belief that the traditional legal order has been arbitrarily violated. Adhering to tradition, in this context, is far from passive or speculative. For the ruling classes of the *societas civilis*, the social and political situation is not experienced or endured as an inevitable outcome of inscrutable historical forces. Instead, it becomes an object of practical deliberation and strategic intervention. In other words, the nobility does not passively rest in the cradle of tradition but remains vigilant, closely monitoring threats to its privileges and responding actively to perceived dangers. Invoking tradition and eternal order is never to be confused with idleness in the face of eternity. Instances of aristocratic inertia or incompetence often occur but are always attributable to specific social and political factors, not to the conservative ideology itself. Figures such as J. Möser, for example, do not represent prototypes of a blissful traditionalism predating conservatism but instead reflect the provincialism and isolation of Osnabrück's circumstances. Even in Möser's case, living within tradition was deeply disturbed by his acute awareness of the dangers threatening that tradition. Moreover, Möser wrote under the shadow of the German nobility's growing accommodation with a tempered, though victorious, absolutism. In earlier periods of intense conflict with rising absolutism, however, the nobility was compelled to defend the traditional order actively and even militantly. Just as the later activism of counter-revolutionary conservatism culminated in the idea of dictatorship, the activism of anti-absolutist conservatism culminated in the idea of tyrannicide. In both cases, the fundamental dilemma running through conservatism's history becomes apparent: the necessity of defending tradition through activist measures, preserving divine order through human force. This core dilemma has led to numerous ideological about-faces (*palinodies*), each addressing specific needs of the social and political struggle and shedding light on the activist dimension of conservative behavior from a different perspective.

The right of resistance is rooted, as is well known and stated, in the legal conception of the *societas civilis*. Its Germanic, somewhat informal core was rationalized through theological terminology, transforming the original mere right of necessity into a more or less clearly defined and regulated legal process.²⁰⁵ This ideological transformation soon proved practical, particularly within the framework of alliances that emerged in response to the strengthening of governmental authority from the late 14th century onward,²⁰⁶ as well as within the

²⁰⁵ 112. Kern, *Gottesgnadentum*, 145 ff., 174.

²⁰⁶ 113. Spangenberg, *Vom Lehnstaat*, 93 ff.

legal realities of the *estates* system, which often accounted for the right of resistance.²⁰⁷ The specifically conservative nature of activism, which must inherently characterize any effective resistance against an “illegitimate” ruler, is evident in the fact that the right of resistance was explicitly and exclusively reserved for the nobility. Tschernembl, a high-ranking noble who made ample use of this right, emphasized the distinction between *homines patricii* or *proceres* and *plebeji* by asserting that God had entrusted the mission of *salus publica* solely to the former. Resistance against the “tyrant,” which would begin with petitions and attempts at persuasion and escalate, if necessary, through tax refusal to open defiance and armed rebellion, was to be controlled at all stages by the nobility, as it was the *stindische Haupter* (heads of the estates) with whom the ruler had established the governing pact.²⁰⁸ This exclusive claim naturally extended to the potential climax of active resistance: “tyrannicide.” Thomas Aquinas and the Council of Constance had already declared that rebellion against the “tyrant” and the possible killing of him were matters for the “people” rather than an individual. However, Thomas prudently considered the case where an individual acted wholly in the sense of the “people,” while the Council of Constance, with equal caution, remained silent on whether an individual might carry out a divine mandate.²⁰⁹ It is unsurprising that some conservative activists of the 16th century paid particular attention to these escape clauses. Especially within the Catholic League and during times of heightened tension, the Thomistic distinction between tyrants *de usu* and *de usurpatione* provided a backdrop for the view that a tyrant, particularly a heretical one, could be killed even by an independently acting individual.²¹⁰ However, it was always taken as a given that the individual actor was acting in the interest of the common good, as if embodying its will. Even Mariana, one of the few outside the aforementioned League to approve of individual attacks on the “tyrant,” immediately added that such an attack required the *vox populi* as well as the consent of *virī eruditi et graves* (learned and serious men²¹¹). Contemporary late scholastics generally adhered to the orthodox view that the deposition or killing of the “tyrant” could only follow a *iudicium publicum* (public judgment²¹²). Likewise, the Monarchomachs reserved the right of resistance and “tyrannicide” for the

²⁰⁷ 114. Wolzendorff, *Staatsrecht*, 23 ff.; Unger, *Geschichte*, II, 251 ff.

²⁰⁸ 115. Sturmberger, *Tschernembl*, 178, 104 ff.

²⁰⁹ 116. Schmidt-Lilienberg, *Lehre*, 33, 35; Mousnier, *Assassinat*, 68 ff. These works also provide the necessary information on the prehistory of the doctrine of tyrannicide. See also Jaszi-Lewis, *Against the Tyrant*.

²¹⁰ 117. Mousnier, *Assassinat*, 80 ff., see also 196 ff.; Landmann, *Souveränitätsbegriff*, 31 ff.; Weill, *Théories*, 6 ff.; Mercier, *Théories*, 258; Lewy, *Mariana*, 67, note 7; Baumgartner, *Radical Reactionaries*, 113 ff.

²¹¹ 118. *De rege*, I, 6 = p. 77; see also Buchanan, *De iure regni*, 100.

²¹² 119. Soto, *De just.*, V, 1, 3 = f. 139r (middle).

nobility or the “people” as a collectively acting entity.²¹³ This explicit identification of nobility and “people,” which incidentally had a programmatic character and thus arose not only in connection with the question of the right of resistance, must be particularly emphasized here. It appears both among Catholic League adherents and others. With slight variations (e.g., regarding whether the *populus* was subsumed under the *ordines*), it serves as a genuine hallmark of conservative thinking,²¹⁴ specifically one that affirms the hierarchical legal and justice framework of the *societas civilis*. Consequently, it can and must serve as a criterion to distinguish conservative thought from liberal or democratic ideas, especially since many modern historians, seemingly unfamiliar with the historicity of concepts, hastily infer popular sovereignty and parliamentary democracy in the modern sense from the mere appearance of terms like “people” and “freedom” in older texts. We will need to revisit this point in more detail later.²¹⁵

The demands of those invoking the right of resistance typically aim at the de facto establishment of an aristocratic republic, albeit without formally abolishing the monarchy; it is therefore no coincidence that references to the Polish example are sometimes made approvingly, both in France and Prussia. Substantively, these demands, despite variations depending on time, place, and specific polemical circumstances, are straightforward and stereotypical: representatives of the *populus* or the estates should determine the fundamental lines of governance, appoint royal officials, convene freely, and have the sole authority to revoke their own decisions, etc., etc. All of this presupposes certain social-theoretical principles, such as the idea that the monarch has been elected by the *populus* under specific conditions, making any deviation from the agreed-upon pact a sufficient reason for his dismissal.²¹⁶ Such political principles, of course, stem from the legal framework of the *societas civilis*, but they only become fully comprehensible within the specific context of scholastic-Aristotelian theories of contract and governance, which, as we will see, form a cornerstone of early and later conservative thought.²¹⁷ For now, however, we shall turn to two other complementary aspects of the demands of conservative activists. First, the inherent radicalism embedded in the modern claim

²¹³ 120. Schmidt-Lilienberg, *Lehre*, 81, 85 ff.; Weill, *Théories*, 88 ff.; Stricker, *Pol. Denken*, 140 ff., 170 ff., 261 ff., 315 ff.

²¹⁴ 121. Good references can be found in Landmann, *Souveränitätsbegriff*, 22; Baumgartner, *Radical Reactionaries*, 127 ff.; Weill, *Théories*, 224; Schubert, *Reichstage*, 344, 403; McIlwain, *Growth*, 303 f.

²¹⁵ 122. In this chapter, sections 3d and 4b.

²¹⁶ 123. For the above, see also Picot, *Histoire*, I, 402; II, 75 ff., 377, 385 ff.; III, 112, 255; Sturmberger, *Tschernembl*, 192 ff., 311 f.; Breysig, *Entwicklung*, 68 f., 115 ff.; Baumgartner, *Radical Reactionaries*, 108, 110, 127 ff., 147 ff., 168 ff.; Labitte, *Prédicateurs*, 228 f., 275; Mesnard, *Essor*, 351 f.; Sée, *Idées*, 94; Moreau (ed.), *Mazarinades*, I, 426, 451, 398 ff., and II, 453; Schubert, *Reichstage*, 392 ff.

²¹⁷ 124. See also section 4b of this chapter.

to sovereignty, as advanced by absolutism, compelled the aristocratic-estate opposition to adopt theoretical positions and practices of comparable radicalism. In other words, once the monarch had either demanded or acquired sovereignty in the modern sense, merely attempting a return to a bygone or mythologized reality was no longer sufficient to effectively curtail or roll back this sovereignty. Instead, the defenders of the *societas civilis* had to claim for themselves those very drastic sovereign rights that the absolutist prince either asserted or practically utilized. Gradually—whether tacitly or through psychologically relieving reinterpretations of traditional notions—they arrived at the conclusion that, in many cases, it was at least temporarily more expedient to create human law in the modern sovereign sense *hic et nunc* than to invoke the unattainable and distant divine law. Once sovereignty had ideologically and institutionally established itself, its possession became the only guarantee of security that, in the good old days, the absence of modern sovereignty had once provided. The pursuit of sovereignty by the enemies of modern sovereignty particularly shaped English developments.²¹⁸ However, the same phenomenon emerged on the continent in various forms as early as the 16th century, during the first major dramatic intensification of the conflict between traditional legal views and modern sovereignty. An example here is the questioning of the *lex salica* by Catholic nobles when the possibility of a Protestant heir to the French throne arose. As the *lex salica* had previously been considered one of the *lois fondamentales*, its questioning amounted to a claim to remake the law based on current political considerations, effectively asserting a sovereign claim.²¹⁹ The radical reinterpretation of the traditional notion of the king's subjection to the *populus* thus culminated in the thesis that the *populus* could also create the laws to which the king must submit. By dismissing the *lex salica* without hesitation, the *Ligistes* essentially acted no differently than the conservatives of the early 19th century, who often handled the legitimacy principle—so highly praised by themselves—with pure expediency in mind. The second aspect mentioned above is the often unpredictable dynamics and unforeseen developments of socio-political struggles triggered by the activist interventions of conservatives, which soon escaped their control. A first good example of this is again the Catholic League, whose main characteristic has been seen, not without reason, as its simultaneous invocation of the spirits of medieval theocracy and Jacobin demagoguery. It is true that the noble leadership of the League retained the upper hand and managed to prevail relatively easily (albeit through harsh measures and executions) against the Parisian *Seize*. However, it is equally true that a significant portion of the Catholic movement rallied around the latter, for whom the attack on the Protestant nobility became an occasion for a broader assault on the corrupt and “Machiavellian” nobility as a whole. The emergence and momentum of such currents within a nobility-led movement explain both the Catholic nobility's sensitivity to

²¹⁸ 125. See Section 5.

²¹⁹ 126. Cf. Lemaire, *Lois*, 139 ff.

accusations of democratic agitation—leveled by Protestant nobles—and the aversion of the latter to any “ochlocracy” within their own ranks that could endanger the nobility as a whole.²²⁰ Another scenario is apparent in phenomena such as the peasant rebellion in Upper Austria at the end of the 16th century. Both the Catholic and Protestant nobility sought to exploit the peasant movement for their own purposes or to blame it on the opposing side. However, when the threat to the nobility of all confessions became evident, they recalled the “old rights” and even sought assistance from the prince, who was otherwise considered a “tyrant.” In the fight against this “tyrant,” nobles such as Tschernembl proposed measures that showcase the full radicality of conservative activism, even appearing to anticipate the concept of total war. Of particular interest here is the consideration of abolishing serfdom if necessary, to win the peasants over to the noble cause and harness their potential in the struggle against the prince.²²¹ Similar willingness to “play with fire” was displayed by the activists of the French nobility, not only during the *Fronde* but also during the preceding peasant uprisings. They repeatedly encouraged peasants to disobey royal tax officials, hoping both that a successful protest against certain taxes would deter the state from taxation altogether and that tax-free peasants would give more to their noble lords. However, peasants often thwarted such calculations by refusing all forms of tribute, turning the protest against state taxation into an anti-feudal movement.²²² Finally, we must consider the unintended and unwanted consequences of conservative activism in the period immediately before the French Revolution. These were not only social in the sense that dormant revolutionary forces emerged during the events triggered by conservative actions, but they also had significant ideological aspects. In their fight against absolutism, the defenders of the conservative cause relied on Enlightenment-inspired natural law rhetoric, thereby contributing to the dissemination of ideas that would soon, in reinterpreted form, adorn the ideological banners of their enemies. Moreover, their propaganda and agitational methods revealed significant demagogic tendencies and capabilities.²²³ Once again, the heterogony of ends proved relentless.

²²⁰ 127. See also O., 218, 65, and Yardeni, *Conscience Nationale*, 247 ff. For general reference, consult Baumgartner, *Radical Reactionaries*, and compare Weill, *Théories*, 151ff, as well as Allen, *History*, 286, 302ff, 343ff, 369, 377.

²²¹ 130. Sturmberger, *Tschernembl*, 56ff, 354ff.

²²² 131. Mousnier, *Fureurs*, Part 1; Mandrou, *Classes*, especially 39, 73; Porschnew, *Volksaufstände*, particularly 89ff, 368ff. Mousnier's critique of Porschnew is insightful and instructive: while Porschnew makes correct observations in detail, he adheres to the familiar Marxist-Leninist schema, positing a shared interest between the king and nobility within the framework of the “feudal state” and therefore interpreting the *Fronde* as an early bourgeois-revolutionary movement (432ff). See also notes 157 and 428.

²²³ 132. Egret provides a detailed account of the course of events in *Pré-Révolution*. See also Gohing's depiction in *Weg*, especially pages 181 ff. and 212 ff.

These examples, which could easily be multiplied, explain in historical retrospect the flirtation of some 19th-century conservative activists with the idea of mobilizing socialist masses for their own purposes and against capitalist liberalism—though, given the pressing realities, this flirtation mostly remained theoretical.²²⁴ At any rate, they demonstrate that the notion of a pre-conservative traditionalism, understood as a partly unreflective and partly passive approval of prevailing conditions, is historically untenable and a purely hermeneutical fiction that cannot account for the concrete dynamics of historical developments and struggles. Within these dynamics, the legal conception of the *societas civilis* has always had to assert itself, and precisely for this reason, conservatism was never preceded by traditionalism. Moreover, the same dynamics compelled conservatism to constantly reshape and reinterpret its concepts and slogans, as it wanted and had to actively participate in socio-political developments. In this, it is no different from any other socio-political movement or ideology. This combative flexibility, which had little in common with the immobile self-contentment of traditionalism, already has numerous examples from earlier times. As already mentioned, the noble opposition of the 16th century dealt with certain traditional principles as freely as later conservatives did with the principle of legitimacy. Such practical and theoretical flexibility could even rationalize phenomena that, at first glance, seemed contrary to the legal conception of the *societas civilis*. One cannot help but smile when reading late Scholastics or Monarchomachs claiming that obedience is owed to a *tyrannus ex usurpatione* as long as he governs “justly.”²²⁵ In plain terms, this could only mean: if the desired socio-political order is adequately protected, it is irrelevant who provides that protection—what serves the purpose is lawful. The conservative acceptance or rejection of socio-political principles based purely on pragmatic considerations becomes particularly evident during the 16th century when these principles intertwined with confessional goals. This refers to the long-established and described frequent shifts between monarchomach and monarchophilic positions by both the Protestant and Catholic factions of the French nobility during the Wars of Religion, depending on the enemy's stance. Each side could claim at every positional shift that it consistently rejected the “unjust” ruler and respected the “just” one, asserting that it was the ruler who changed, not them, thus leaving the outer framework of the legal conception of the *societas civilis* intact. Indeed, during those intense controversies—where the sharpest arguments were often the bloodiest—the principles of traditional legal thought were neither enriched, refined, nor altered. Instead, they were used from all sides in interpretations that suited their immediate purposes, allowing Catholic theorists to influence their Protestant enemies and vice versa.²²⁶ This implies that confessional

²²⁴ 133. See below, Chapter IV, Section 2.

²²⁵ 134. Vitoria, *Commentary*, question 60, article 6 = III, 54; Suarez, *De legibus*, 3, 10, 7–8; Brutus, *Vindiciae*, III = p. 195 f.; Beza, *De iure*, V = p. 38; Buchanan, *De iure regni*, 53 ff., 100.

²²⁶ 135. Regarding these complex developments, see, in addition to Weill's classical

and socio-theoretical oppositions did not necessarily overlap, even though confessional and socio-political conflicts influenced one another on every conceivable level and in every conceivable form—a realization that might serve as a guiding thread within the highly convoluted lines of argument in those disputes. This independence of the confessional and the socio-theoretical interests us here only from the perspective of the latter, insofar as it could be manipulated under the pressure of confessional conflict to the extent that it allowed the noble opposition—whether Protestant or Catholic—to make tactical shifts and retreats without significant difficulty. As we must reiterate, such plasticity of conservative thought would be unthinkable without the existence and impact of conservative activism. In traditionalist passivity, as in any other, ideas and concepts must remain immobile and one-dimensional; their potential binding clarity is purchased at the price of their weakness.

In reality, what appears in the 17th and 18th centuries on the continent as a blissfully passive traditionalism is nothing more than the exhaustion of the nobility following its defeats in the struggle against absolutism. These defeats, however, could neither break its sense of class identity nor erase its memories, especially since it continued to form a fundamental pillar of the state. The process of discipline²²⁷ that the modern state initiated and carried out in the 17th and 18th centuries affected the nobility itself. The ideal of a noble republic was definitively abandoned, and at the same time, the appetite for activist adventures faded. This sentiment is theoretically expressed by figures like Moser, who asserts that “state sovereignty” and “state freedoms” are by no means “incompatible things,” expecting the estates to avoid making “illegitimate” demands while denying them the right of resistance, particularly offensive resistance. At the same time, he refuses to leave the determination of “what truly constitutes the common good” solely to the ruler.²²⁸ This, of course, was said with reference to the conditions in Germany at the time; in France, as late as 1788, conservative activism directed against absolutism was still making significant waves. Yet the French events themselves demonstrated that, in the face of the bold emergence of new socio-political forces pursuing radically different goals, conservative activism could no longer direct its full weight against absolutism without consequences. The liberal or democratic revolution provided it with a new enemy against whom its full energy could now be unleashed.

analysis (*Théories*, especially pp. 5, 35 ff., 55 ff., 62 f., 71 f., 81 ff., 134 ff., 153 ff., 206 ff.): Mercier, *Théories*, especially pp. 236 ff., 381 ff.; Lemaire, *Lois*, p. 105; Mesnard, *Essor*, p. 315; Figgis, *Political Theory*, pp. 181, 187 ff.; Landmann, *Souveränitätsbegriff*, pp. 36 ff.; Chlumecky, *Zierotin*, I, p. 273; Nürnberger, *Politisierung*, p. 103 ff.; Caprariis, *Propaganda*, pp. 425 ff.; Allen, *History*, especially pp. 209, 214, 224; Kretzer, *Calvinismus*, especially pp. 425 ff.

²²⁷ 136. According to Oestreich, *Geist*, 236ff, 190ff.

²²⁸ 137. *Von den Deutschen Landen*, 1149ff, 1177ff, 1188, 1355.

d. The Socio-Political Character of the Estates

To establish the connection between the issue of the estates (*Ständetum*) and the central theme of this work—that is, to demonstrate that the estates were generally the stronghold of conservative thought and proponents of the legal conception of the *societas civilis*—their essential difference from parliaments must be understood. Parliaments emerged only within the framework of the modern state and explicitly or implicitly presuppose the modern concept of sovereignty. Clarifying this fundamental distinction is particularly necessary today, as a broad current of liberal historians nurtures and perpetuates the fiction that estates and (modern) parliaments represent two more or less harmonious phases of a single, unified development or two steps along the royal path of the “Occident” toward “freedom,” thereby proclaiming them as the necessary outcome or even the original attribute of “Western history.” This current, sometimes openly admitting its intent to make the study of history serve contemporary political aims (in other words, to subordinate it to them²²⁹), deserves the label “liberal Bolshevism,” even though it predates Bolshevism itself. It originates from the Whig interpretation of English history and was further propagated by the romantic liberals of the 19th century.²³⁰ However, in recent decades, it has pursued new objectives. On the one hand, it seeks to combat “right-wing and left-wing totalitarianism” by emphasizing its historical incompatibility with the “entire history of the West,” thereby highlighting its monstrous character. On the other hand, it aims, by merging liberal and estate-based ideas, to support liberal “conservatism”²³¹ in its struggle against the democratic reinterpretation of liberal principles.

The supposed continuity between the estates system and modern parliamentarism, or between medieval and modern political traditions of the

²²⁹ 138. For instance, Maier seeks to identify “precursors and models of our current democracy” in the study of the past, “just as our freedom-minded ancestors in the 19th century did without hesitation.” While he distances himself from the unhistorical exaggerations of these predecessors, he emphasizes a warning against historical relativism, which forms the crux of his position. His enthusiasm even leads him to trace the chancellor democracy of the Federal Republic’s Basic Law back to older traditions (*Probleme*, esp. 398, 411 ff). Indicative of the confusion created by this perspective is Maier’s labeling of the state-absolutist tendency as “conservative” and its opposition as “social-liberal” (*Polizeiwissenschaft*, 27). Similar views are suggested by Bosl (*Geschichte der Repräsentation*, esp. IX, 238). These ideas were asserted, though superficially, by Carsten (*Princes*, esp. 433 f.), and are met with a detailed critique by Herde (*Deutsche Landstände*, esp. 294 ff). It should be noted, incidentally, that the thesis of continuity between the development of estates and parliamentary institutions is modeled on the English example, which itself has been poorly understood or interpreted under the influence of longstanding myths. See Section 5 of this chapter and the following note.

²³⁰ 139. Lousse, *Parlement ou Corporation*, 278 ff.

²³¹ 140. Regarding this topic, extensive discussion is found in Section 2 of Chapter I.

“West,” is argued to rest on the idea that in both cases, law was regarded as the supreme authority and the people as the (at least indirect) source or guarantor of the law’s preservation. What was understood as “law” and “people” in each context—and the fact that the differing interpretations of these terms provided more grounds for conflict than their nominal acceptance offered for unity—seems to be of little interest to the liberal researchers in question.²³² Others assume that the dualism of people and government, whereby the former is tasked with controlling the latter and thus safeguarding “freedom,” constitutes an essential characteristic of modern statehood.²³³ However, this perspective overlooks the critical fact that the “estate-organized people” could only restrain the monarch’s power (to some extent) because the legal framework of the *societas civilis* was still alive and was regarded as binding on all members of the social body—standing above them all. In other words, this “state” was not yet fully a modern state. The mistakenly presumed independence or even temporal precedence of absolutism over the controlling activities of the estates—activities purportedly brought into existence by the existence of absolutism as formed by modern governance—distorts the reality. The defining feature of modern statehood is not this dualism but rather the modern concept of sovereignty and the resulting direct relationship between the state and all individuals, which ultimately abolished the rule of *oikos* leaders and, over time, all intermediary powers. Similarly, the correct observation of the persistence of particular freedoms at regional and local levels during the entire absolutist period²³⁴ cannot be interpreted to mean that the estate-based element, purely by its own dynamism, imposed insurmountable limits on absolutism, even in its most successful phase. These limits arose, not least, from the social and political character of the higher agents of absolutism themselves, who came from the nobility and defined themselves as absolute primarily in relation to the nobility. In this sense, the abolition of the nobility (and thus all privileges within the *societas civilis*) would not have marked the complete victory of absolutism but, on the contrary, its end—ushering in the transition to constitutional monarchy or even the full and indivisible sovereignty of parliament. Some clear-sighted individuals recognized this even before 1789.

The manipulation of history by contemporary liberal historians in the matter at hand becomes glaringly evident when we simply recall the positions of those directly affected—namely, the conservatives fighting against liberalism and democracy during and after 1789. The passionate debates of 1788/89 regarding the modalities for convening the Estates-General in France, as well as the later writings and detailed analyses specifically addressing the difference between the estates system and modern parliamentarianism by thinkers such as Gentz, Jarcke,

²³² 141. A typical example of such liberal simplifications is A. Carlyle’s book *Political Liberty* (published in 1941!). Similarly, see Ullmann, *Individual and Society*, esp. 67 ff, 90, 97 f.

²³³ 142. So Naf, *Frühformen*, 227.

²³⁴ 143. Gerhard, *Aufsätze*, 72ff; Oestreich, *Geist*, 289, and *Ständetum*, 72f.

Vollgraff, Campe, Stahl, and others²³⁵, testify to the conservative awareness that this involved a mortal opposition between the legal framework of the *societas civilis* and modern statehood. The conservatives recognized and stated the connection between modern statehood and modern parliaments, namely the latter's demand to possess and exercise sovereignty in the modern sense.²³⁶ Sovereignty, therefore, emerges once again as the decisive criterion for assessing whether a socio-political stance is conservative or not. As the internal structural connections in the political theories of Hobbes, Spinoza, or Rousseau suggest, the modern concept of sovereignty could apply equally to an absolute monarch, to the people, or to an assembly of representatives. The absence of this idea in the *societas civilis* manifested in two ways: the power to create law *ex nihilo* according to one's own will was denied not only to the monarch but also to the "people." The assumption that the people, too, are not sovereign constitutes the ideological foundation of the estates system, while the idea that the people are the sole sovereign underpins modern parliamentarianism. It is self-evident that such a profound difference regarding attitudes toward sovereignty also necessitated differing definitions of "the people," since, as we know, modern sovereignty, in establishing the modern state, *co ipso* implies the direct relationship of all individuals to the state. The "people" as conceived in the estates system neither represents the sum of all individuals nor can it create law sovereignly; it encompasses all who possess rights and privileges,²³⁷ and its role is to defend divine and natural law in its essential form, despite adaptations and modifications.²³⁸ Thus, "the people" and the prince constitute components of a higher whole, which, in turn, is meant to embody and actualize law.

This concretization, of course, depends on the respective power dynamics between the prince and the "people," which varied significantly depending on time and place. Even when we consider a somewhat later phase of this relationship—when the prince and estates no longer collectively constituted the land and acted together but rather stood opposed as "sovereign" and "land" and negotiated with one another²³⁹—the demand of the estate-structured "people" for the unrestricted validity and application of the legal conception of the *societas civilis* remained unchanged. Although the sovereign could often determine what constituted legitimate and true tradition—so much so that princely appeals to it frequently resulted in its undermining—the estates' claim still had strong

²³⁵ 144. They are discussed in more detail in Chapter III, Section 5a.

²³⁶ 145. E.g., Vollgraff, *Täuschungen*, 48, 53.

²³⁷ 146. Vollgraff is also aware of this, *Täuschungen*, 36. Parliamentary representation and the modern state (i.e., unified legal regulation and centrally organized bureaucracy) belong together—for him, rightly so—59ff.

²³⁸ 147. Scheuner, *Volkssouveränität*, 306; cf. Hofmann, *Repräsentation*, 191ff.

²³⁹ 148. Brunner, *Land*, 492.

foundations in the existing socio-political reality. As long as the idea of sovereignty had not (entirely) prevailed in practice, and the totality of socio-political life could best be described as "sovereignty and land," princes and estates formed independent subjects of traditional rights, capable of coexisting—whether competitively or harmoniously—and managing their respective primary domains.

²⁴⁰ From the perspective of the estates, this tense coexistence was dictated by the overarching legal idea encompassing the *societas civilis*. The ordinances of the estates concerning the internal administration of the land were not the product of a unified legislative authority to which the sovereign had to submit but rather the exercise of traditional partial rights and privileges.²⁴¹ Similarly, when the estates granted the prince the authority to independently regulate various administrative and financial matters of the land, they did not interpret these actions as manifestations of his sovereignty but as the exercise of regalia already embedded in traditional legal conceptions. Disputes continually arose over the concrete interpretation of what belonged to the regalia, and these were resolved by the prevailing balance of power. This meant that the relationship between princes and estates was not subject to fixed institutional regulation in the sense of modern constitutions—precisely because the overarching legal idea did not permit abstraction from traditional rights and privileges. In contrast, modern institutional regulations governing the relationships between state organs presuppose a formally general, abstracted conception of the state detached from historical particularities. The estate-based state neither possessed nor embodied the idea and reality of a fixed and impersonal institutional framework. Instead, it was governed by *suum cuique* (to each their own) and privileged legislation rather than the codified distribution of state competencies. Thus, the term "dualistic estate-state" must not be interpreted as such institutional fixation but rather as an ongoing struggle between two centers of power, the result of which was a continually shifting division of socio-political rule.²⁴² A fundamental difference, therefore, exists between the "dualistic estate-state" and the much later constitutional monarchy, which became possible only on the foundation of the modern concept of the state—namely, unified state authority with organs in institutionally regulated

²⁴⁰ 149. So Haß, *Kurmark. Stände*, 313, who anticipated Brunner's main thesis. Regarding the idea of cooperation between prince (emperor) and estates at the level of the German Reich, see Schubert, *Reichstage*, 515, 525.

²⁴¹ 150. Even Rachfahl, who made the greatest effort to assert the legislative independence of the estates against Tezner's interpretation (see next note), acknowledges the frequent dependence of the prince. However, he continues to believe that the estates held "exclusive authority" in tax matters (*Dualistischer Ständestaat*, particularly 168ff, 170ff, 181, 186, 191ff).

²⁴² 151. Tezner, *Technik*, particularly 11, 13, 354ff, 854ff; see also Unger, *Geschichte*, I, 225. Rachfahl (*Dualistischer Ständestaat*, 201ff) defends the term "dualistic estate-state" against Tezner because, despite reservations, he leans toward a modern-institutional interpretation of the estate-state.

relationships to one another.²⁴³

The absence of a consistent and conscious claim to sovereignty, that is, adherence to the legal conception of the *societas civilis* as a defining characteristic of the estates, is also evident in the fact that the idea of a separation of powers in the modern sense does not appear at all within their horizon of concepts or expectations.²⁴⁴ This absence, of course, coincided with the previously discussed lack of a fixed institutional regulation of the relationship between princes and estates. Here, the connection between modern sovereignty and the separation of powers must once again be emphasized. The estates do not demand a separation of powers not only because they are unfamiliar with the idea of voluntaristic law-making and, therefore, cannot imagine themselves assuming the role of sovereign legislators within such a division of powers, but also because they possess, within the reality of the estate-state, the ability to simultaneously exercise multiple functions. They could themselves implement the measures they (co-)decided upon and, in addition, practically control significant areas of jurisdiction. All of this, however, occurred outside the domain of the *regalia*, which was similarly characterized by the blending of functions and competencies. This state of affairs corresponded to the legal conception of the *societas civilis*, which was intertwined with *justitia distributiva* and *privilegium*, without distinguishing between the state and the social, the political and the economic, the legislative and the administrative. In their concreteness, the estate-based “freedoms and justices” could only persist in and through this intermixture. When these were replaced by the great singularizations, namely “freedom” and “justice”, this marked the triumph of the modern idea of sovereignty. Sovereignty and such singularizations necessarily go hand in hand insofar as the sovereign law is singular, unified, and universally valid—in every respect, it is one. As such, it is the product of a concentrated legislative will, which, in its effort to make the primacy of the legislative function visible in its new socio-political meaning and intensity, programmatically distinguishes it from the executive and judicial functions. Thus, the separation of powers and modern sovereignty belong together—at least for a certain phase in the history of the latter.

The differing stance on the decisive issue of sovereignty ultimately defines the essential distinction between modern parliamentarism and the estates system regarding representation. Since modern sovereignty implies the direct relationship of the individual as an individual to the state (regardless, for now, of how many individuals may actually enter into such a direct relationship with the state), a parliament operating within the framework of modern statehood must represent the entire population as the sum of all politically entitled individuals through representatives elected by these individuals. The estates system operates entirely differently. Here, the modern concept of sovereignty is unknown and

²⁴³ 152. 152. See Quaritsch, *Staat*, 182 ff.

²⁴⁴ 153. Already noted in Campe, *Landstände*, 361 ff; cf. Back, *Herzog*, 177.

incomprehensible, and the “people” are not conceived as the sum of individuals. Instead, the estates represent the “people” in the sense of the *societas civilis*. This “people” consists of *oikos* leaders—landowners who are also capable of bearing arms or engaging in feuds. They act under the aegis of traditional law, holding privileges (freedoms and rights) and considering themselves co-owners of the land, precisely because the modern idea of sovereignty is entirely alien to them. Thus, when they appear as estates, they are not delegated by the broader circle of politically entitled individuals to represent them; rather, they act on their own authority. This autonomous role presupposes the political disenfranchisement of the broader population.²⁴⁵ Political disenfranchisement here means that the broader population is denied any direct relationship with the “state.” The “state,” in turn, is not a sovereign state in the modern sense because it does not engage directly with each individual in this population but instead interacts only through the mediation or tolerance of an *oikos* leader. The *oikos* leaders appearing in the estates interpret this reality as granting them not only the duty to protect the members of their *oikos* but also to represent them whenever their interests are discussed. This interpretation has led some researchers to claim that the estates served as true representations of the country, in the modern sense of the term, and that they represented not only their own interests but also all inhabitants and the general interests of the region—particularly regarding taxation.²⁴⁶ However, this fundamentally misinterprets the nature of estates. First, the estates’ invocation of “common benefit” and “common good” cannot be seen as evidence that they represented all inhabitants of the land since rulers also frequently invoked these same concepts to justify their policies.²⁴⁷ Second, the estates’ reference to the interests of all inhabitants must not be taken at face value, as the fiction of serving the general interest always masked their own. The estates’ verbal alignment with the general interest was intended not only to bolster their moral authority and preempt similar claims by rulers but also to prevent any princely interference in the affairs of the unrepresented inhabitants. This ensured that such matters remained under the discretion and control of the *oikos* leaders. This dynamic is most evident in taxation issues. When the estates, claiming to act in the general interest of all inhabitants, opposed additional taxation of tenants and peasants, they did so because overburdening their own people for the sake of the princely treasury could reduce their own income.²⁴⁸ Thus, the estates’ claim to represent the

²⁴⁵ 154. Tezner, *Technik*, pp. 70ff, 74f; Haß, *Kurmark. Stände*, pp. 308ff; Brunner, *Land*, pp. 261ff. Already Vollgraff, *Täuschungen*, pp. 13, 24ff; Campe, *Lehre*, p. 99.

²⁴⁶ 155. Similarly, Unger, *Geschichte*, Vol. II, pp. 431ff; Rachfahl, *Dualistischer Ständestaat*, pp. 192ff, 198ff; Below, *Territorium*, pp. 120ff.

²⁴⁷ 156. Cf. also a note by Tezner, *Technik*, p. 69.

²⁴⁸ 157. Already Campe (*Lehre*, 101) highlights this point; see also Haß (*Kurmark. Stände*, 309), and notes 131 and 428 in this chapter. In a petition by the estates of Kurmark to Hardenberg on March 6, 1811, it stated: “If, in those times [the 17th century], the nobility

peasants was, in reality, a warning to the ruler not to intrude—through tax collectors or otherwise—into areas of the *societas civilis* that had previously been beyond the ruler's reach, thereby preventing the state from making these areas directly subject to its control.

In this decisive sense, the estates, while claiming to protect all the inhabitants of the land, were in fact defending the overall order of the *societas civilis* and thus their own rights and property. Incidentally, since the estates were based on property, they represented only a real rather than a personal representation; under these circumstances, any claim of representing all subjects was out of the question.²⁴⁹ The lack of personal representation in the modern parliamentary sense is also evident in the binding of members of the estates assemblies to an *imperative mandate*. By their very definition, they were required to represent the interests of the *oikos* leaders who had sent them to the assemblies and could not represent anyone without having received an *imperative mandate* from them. However, the totality of the population neither granted them an *imperative mandate* nor any other form of mandate. The necessity of the *imperative mandate* arose directly from the legal understanding of the *societas civilis*: if a right or privilege was inalienable and non-transferable, its holder had to be protected in advance from decisions made independently by any assembly.²⁵⁰ It was therefore natural that the princes, who competed with the estates, sought to replace the *imperative mandate* with the *plena potestas* of the estates' representatives. The princes wanted swift and final decisions from the representatives, who could be influenced on the spot. Since the *plena potestas* of the representatives generally favored the princes' positions, its granting by the estates' representatives' constituents was often seen as tacit approval of the princes' wishes.²⁵¹ The free mandate significantly weakened the internal bonds of the *societas civilis*, and it was no coincidence that it was legally enshrined by the French National Assembly in 1791. The aim was to create a unified civil law that would level the historically entrenched particularities of estates and regions, thus consolidating the national territory.²⁵²

consented to taxes being imposed on their subjects, it was still they who actually paid them, as this reduced their lordly revenues" (quoted in Steffens, *Hardenberg*, 186)

²⁴⁹ 158. This was already clearly articulated by Posse in 1794, as cited in the passage referenced by Hofmann, *Repräsentation*, 350.

²⁵⁰ 159. Miller, *Mandat*, 99. On the *imperative mandate* as merely a defense of the content of the *Cahiers* before the *États-Généraux*, see Cadart, *Régime*, 153.

²⁵¹ 160. Post, *Studies*, 116ff, 160f. Miller is also aware of the background of the *free mandate* (*Mandat*, 150, 202). For this reason, his claim (74f) appears paradoxical—that the free mandate would not constitute a specific difference between modern and estate-based parliaments. Even in the few cases where the free mandate was granted without princely pressure (as Miller points out), specific tactical reasons and a special trust relationship between the mandate givers and their representatives were present. However, the fundamental constellation remained unchanged. See also below, p. 205.

²⁵² 161. Miller, *Mandat*, 49ff.

In light of these findings, it is misleading to continue emphasizing the supposed beneficial influence of estate principles and practices on the development of modern representative bodies, especially when one is aware of the radical difference in essence between estates and modern parliamentarism. Those who do so ultimately fail to avoid modernization and anachronism across the board. When it is said that modern parliamentarism at least adopted the principle of representation itself, the identity of estates and land (i.e., the estates *are* the land; they do not represent it) is simply ignored. As a result, the essence of estate-based representation is mistakenly linked to functions such as the limitation of governmental power or participation in governance; the monarch, as the representative of state unity, is then imagined to have stood in opposition to representatives of social (partial) interests.²⁵³ This interpretation indirectly presupposes the existence of state unity or unified governmental authority and then assumes that the estates opposed it. But that was not the case. The great era of the estates belongs to the pre-state epoch and ends with the consolidation of the absolutist state. When the estates made demands, they did not oppose unified governmental authority in a unified state; rather, they invoked the legal understanding of the *societas civilis*, according to which the parallel existence and operation of several socio-political forces and authorities, without any competence distribution in the modern sense, was natural. The state unity or modern statehood, which was simply incomprehensible to the estates, is precisely what the modern parliament (symbolically) seeks to embody. Hence, it cannot (at least in principle, and despite the compromises it often made with constitutional monarchs during transitional periods) be regarded merely as a representative of partial societal interests in opposition to state authority, as the estates allegedly were. Viewed in this way, the difference between the estate system and modern parliamentarism is so great—it essentially aligns with the difference between the legal understanding of the *societas civilis* and the modern idea of sovereignty—that parallels of any kind contribute little to understanding the matter, even if they are framed as formally as possible. Such formalities strip them of any historical value. The struggle over the centuries was not about the continuity of formality but rather about transformation or upheaval concerning substantive issues.

As a living contrast to modern statehood—and consequently to modern parliamentarism, which can only exist as one of several possible constitutional configurations on the basis of the former—the *Ständetum* (estate system) reflects the vibrant diversity and asymmetric polycentrism of the *societas civilis*. This begins with the composition of each estate, where natural and juridical persons, individuals, and corporations intermingle, and where the distinct, codified status differences between members of the same estate are by no means nullified by their

²⁵³ 162. Hintze, *Staat*, 140 (compare, however, p. 121, where Hintze emphasizes that the estates are the Land and that they represent not based on a mandate but on a traditional legal understanding); Lowenthal, *Kontinuität*, 346ff.

shared membership.²⁵⁴ Additionally, the estates are clearly separated from one another, as seen in the requirement that representatives must belong to their respective estates and in the absence of collective decisions across all estates—each estate votes individually.²⁵⁵ The majority principle of modern parliamentarism is consciously rejected here—indeed, as early as very ancient times²⁵⁶—because it was understood that a numerical majority on one side could nullify the acquired and customary rights and privileges of another side, which would contradict the legal principles of the *societas civilis* in general and the principles of *justitia distributiva* in particular. Given this situation, it was no surprise that the path to implementing the modern sovereignty concept in its parliamentary form—and thus to the triumph of the majority principle—had to involve the equalization of the estates and the (initially formal) abolition of status distinctions within each estate. The heterogeneity of estate representation at all levels remains a significant reason why, in the long term, the estates could not form a unified, liberal, anti-absolutist front—despite assurances from liberal historians. On the contrary, the antagonism between the nobility and the towns within the estates highlights how the struggle for the monarch's favor and the pursuit of alliances with him against the other estate were at least as common as the shared opposition of all estates against the "tyrant."²⁵⁷

In light of these and similar facts, the view that the estates fulfilled state-supporting functions and defended the unity of the land—partly through the approval of taxes serving the common good and welfare, and partly by opposing dynastic practices that led to the fragmentation of lands and territories—cannot be accepted.²⁵⁸ It can instead be argued that the estates, acting in accordance with the legal principles of the *societas civilis*, sought freedom from the emerging state rather than a consistent share in all its activities; that alliances between members of the same estate across different territories were often stronger than coalitions between knights and towns within the same territory; that they were rarely or hardly interested in foreign policy matters and contributed little to the establishment of modern armies or other organs of overarching state policy; that their internal divisions not only allowed princes to play them against one another but also frequently hindered, often contrary to princely policies on the matter, the

²⁵⁴ 163. Lousse, *Société*, particularly pp. 342 and following.

²⁵⁵ 164. Gerhard, *Probleme*, p. 226.

²⁵⁶ 165. An example from the year 1577 can be found in Griffiths (ed.), *Representative Government*, p. 449.

²⁵⁷ 166. For details on the various configurations in the relationship between princes, nobility, and towns in the German region, see, for example: Petersohn, *Fürstenmacht*, Chapters IV–V (cf. p. 130); Breysig, *Entwicklung*, pp. 78f, 186; Haß, *Kurmarkische Stände*, pp. 161 ff.; Hartung, *Kräfte*, pp. 67f; Kahle, *Landesherr*, pp. 85 ff., 99f, 112, 166

²⁵⁸ 167. Additionally: Naf, *Frühformen*, p. 234; *Herrschaftsverträge*, pp. 32, cf. 37f; *Staat*, pp. 37f.

establishment of general estates in which the voice of the entire land could have been heard; that they generated no new ideas and only showed genuine interest and activity when it concerned their traditional *jura* and *libertates* or the acquisition of special privileges; and that, in short, they remained confined within the narrow horizon of their specific worldview, fighting not for general rights and freedoms but for their own, not for the state but for their status.²⁵⁹ To this, it can be added that it was the monarchy that first created (relatively) territorially unified spaces within which estates could operate (relatively) cohesively, and that even their convocation was rarely an autonomous or spontaneous act, but rather stemmed from royal initiative, which thereby compelled the heads of *Oikoi* concerned with their own particular interests to engage with broader issues and concerns.²⁶⁰ Even in England, often cited as the prime example of the independent life and organic growth of the estate system into modern parliamentarism, the feudal parliament could only thrive within the framework of a relatively centralized monarchy—initially because the monarchy considered it the most expedient and flexible instrument for achieving its objectives. And if this experiment succeeded there (in contrast to France, for example, where the importance of provincial estates consistently outweighed that of the general estates), it was not due to any particular sense of statehood among English *Oikos* leaders, but rather to the geographical boundedness, cohesion, and unity of the country, which allowed for regular interaction and a manageable social-political overview given the technical means available at the time.²⁶¹

This summary of the evidence and indications supporting the general adherence of the estates (*Ständetum*) to the legal views and practices of the *societas civilis* must conclude with a warning against deriving a moral reproach from these facts, as was particularly common among older German historians with monarchist sympathies. To accuse the estates of playing a disastrous role in state formation, or of self-interest and shortsightedness, is to retroactively demand that they think and act differently from what their historical identity necessitated. Apart from the

²⁵⁹ 168. Hartung, *Kräfte*, pp. 75f; Gerhard, *Aufsätze*, pp. 18 ff., 43f, 474; Helbig, *Fürsten*, pp. 70f; Wettin, *Ständestaat*, p. 474; Adel in Kursachsen, pp. 238 ff. Buchda, *Reichsstände*, pp. 240f; Heinrich, *Adel in Brandenburg*, pp. 283f. Tezner, *Technik*, pp. 82f (cf. pp. 18f and Unger, *Geschichte*, II, pp. 274, 285 ff., 337 ff.); Haß, *Kurmarkische Stände*, pp. 85f. Oestreich, *Ständetum*, pp. 68f.

²⁶⁰ 169. Post, *Studies*, p. 146; Cadart, *Régime*, p. 25 (cf. pp. 37, 40). Naf also admits that the estates were first awakened by monarchical rule (*Frühformen*, p. 228). See the remarks by Helbig (Wettin, *Ständestaat*, esp. pp. 388, 465), who highlights the significance of princely actions in unifying a territory, even in the absence of historically established legal communities, thereby relativizing Brunner's theses (*Land*, pp. 205, 207, 211).

²⁶¹ 170. Lyon, *Medieval Constitutions*, p. 169; Myers, *English Parliament*, pp. 141ff.; Koenigsberger, *Powers*, pp. 215ff., 241ff.; Fawtier, *English Parliament*, throughout; even Hintze, *Staat*, pp. 50ff.

question of whether the motivations of princes were any “more moral” than those of the estates, it must be understood that the eventual outcome—what we now recognize as leading to the modern state—was not clearly foreseeable in the 16th, 17th, or 18th centuries. Therefore, the estates cannot be accused of having “betrayed” something that did not yet exist in a universally recognizable form—²⁶² let alone that the alleged higher morality of progress toward modern statehood would need to be demonstrated based on compelling criteria. What has been called the “narrow-mindedness” and “self-interest” of the estates, which in reality was their adherence to the legal framework of the *societas civilis*, must nonetheless be emphasized when countering claims that they were somehow inevitable precursors to modern parliamentarism.

The essential difference between the estates and modern parliamentarism is historically evidenced by the fact that the transition from the former to the latter always involved a radical break and a significant modification or even upheaval of the existing distribution of power. We shall see²⁶³ that even the legendary continuity of English development, in key respects, is an optical illusion, as the (partial) continuity of physical and historical subjects does not necessarily equate to a continuity of function—and it is function that matters here. The events of 1788/89 in France leave no doubt that the transformation of the Estates-General into a body aligned with the principles of modern parliamentarism—presupposing and advancing modern sovereignty—coincided with a profound revolution. It is noteworthy that the revolutionary nature of this transformation was recognized not only by 19th-century conservatives, who rightly emphasized the fundamental difference between the estate-based and representative constitutions,²⁶⁴ but also by politically astute contemporaries of the events. The intensity and meticulousness of the debates over the major and minor modalities of convening and composing the Estates-General vividly illustrate this awareness. Nothing was taken lightly because all parties understood what was at stake. The decision to convene the Estates-General was initially a victory of the nobility over the monarchy, yet the prospect of limiting the power of absolutism through the representation of the “people” brought forth socio-political forces that understood representation (and thus the “people”) not in estate-based terms but in natural law-individualistic terms, grounded in the modern idea of sovereignty. The initial alignment between the nobility and the Third Estate on the necessity of summoning representatives of the people thus devolved into fierce competition between the perspective rooted in individualistic natural law and that based on privilege and *justitia distributiva*.²⁶⁵

²⁶² 171. See also Birtsch, *Landständische Verfassung*, pp. 36ff.

²⁶³ 172. In the 5th section of this chapter.

²⁶⁴ 173. Vollgraff emphasizes that the “representative system” was only introduced to the world by the French Revolution, specifically through the “unlawful” transformation of the Estates-General into a “representative, constituent National Assembly” (*Täuschungen*, 1, 3).

²⁶⁵ 174. See also Beik, *French Revolution*, 14; Carcassone, *Montesquieu*, 581 ff.; Mallet du Pan,

When the nobility demanded adherence to the convening rules of 1614, they knew it was a matter of preventing voting by headcount and thereby preserving estate-based principles.²⁶⁶ Meanwhile, royal policy unwittingly set a revolutionary development in motion by declaring that the king sought the advice of the deputies on general national issues, effectively diminishing the importance of the *mandat impératif* and the binding of deputies to the contents of the *cahiers*. This ultimately led to their independence not only from their voters but also from the king. The expression *Assemblée représentative de la Nation entière* in the preamble of the electoral regulations of January 24, 1789, signaled this future development.²⁶⁷

The stark historical and socio-political contrast between the Ständetum (estates system) and modern parliamentarism becomes equally evident when we examine the ideological commitments of the estates and their alignment with the legal conception of the *societas civilis*. It is true that the estates system was neither a cradle nor a platform for grand theoretical development and that its ideological assumptions were more implicitly presupposed than systematically or thoroughly articulated. The confirmation of estate freedoms in charters, typically granted as a counterpart to the approval of taxes or upon the accession and homage of a new monarch, provides important indications and hints in this regard. However, in negotiations between rulers and estates, discussions almost always focused exclusively on specific points of contention, while the broader ideological framework within which these debates occurred was largely taken as known and self-evident.²⁶⁸ A deepening of ideological platitudes about traditional customs, and so forth, only emerged when the ruler attempted to unilaterally impose their will or present their will as law and law as the product of their will. Yet, even the mere confirmation of estate freedoms contained or implied the belief in a divine-natural order that had existed since time immemorial, as well as the fundamental principle of *justitia distributiva*. In addition to this, there are many other, more precise testimonies to the conservative worldview of the estates. These will be analyzed at the appropriate points during the reconstruction of the intellectual framework of anti-absolutist conservatism, to which we now turn.

Mémoires, I, 163;

²⁶⁶ 175. Egret, *Pré-Révolution*, 344.

²⁶⁷ 176. Cadart, *Régime*, 153ff, 163. Contemporary conservatives strongly criticized the Crown for this course of action; see, for instance, Brandes, *Politische Betrachtungen*, 22ff; Bonald, *Traité du Ministère Public*, V = *Œuvres*, II, 131.

²⁶⁸ 177. For typical negotiations between rulers and estates regarding argumentation, style, and focal points, see Freyberg, *Geschichte*, II, throughout. General information on charters can be found in Unger, *Geschichte*, I, 240ff. Texts of confirmations are provided by Moser in *Von den Teutschen Landen*, 949–1124.

4. Ideological Leitmotifs of Anti Absolutist Conservatism

a. Outlook and Conceptual History of "Conservation"

The discussion of the socio-political nature and theory of the *Ständetum* has already brought us to the threshold of our main subject: conservatism as a continuation and, in part, further development of the ideology of the *societas civilis* in the service of its ruling classes, which sought to assert themselves under the conditions of emerging modern statehood. The defense of law, or the legal conception of the *societas civilis*, against the modern claim to sovereignty presupposes or entails certain theses. Regardless of the degree to which they are elaborated, these theses underpin the conservative worldview as a systematic—or at least reconstructable—whole. The most significant and implication-rich of these theses are: that the *societas* precedes government and, therefore, the naturally and organically given precedes the activist will of particular instances in both time and status; that the collective reason crystallized in tradition and history is logically and morally superior to all philosophical and political manifestations of individual or sectarian reason; that governance of the commonwealth (both domestically and in relation to other communities), insofar as it adheres to the imperatives of this collective reason and leaves no dangerous room for governmental voluntarism, coincides entirely with religion and morality, thereby realizing the unity of ethics and politics; that *societas* and (estate-based) hierarchy are equally natural and ultimately synonymous, meaning that attacks by individual or sectarian reason against the latter must, sooner or later, harm the former; and that, accordingly, the new state and the new society are, by their genetic character, in opposition to the essence of humanity, which has always lived within the *societas*. These theses do not appear in coherent or theoretically precise form among the average conservative writers, as the focus is usually on addressing current issues in a manner effective for propaganda.²⁶⁹ Thus, the assumed theoretical principles are more often applied than explicitly stated. However, there are thinkers such as Fénelon who grasp all aspects of this conceptual complex at once and in their interrelation. Additionally, terms like "law" and "justice," which are common even in average public discourse, frequently encapsulate the entire substance of these theses, as can readily be inferred from context. Given these facts and texts, it is

²⁶⁹ 178. Cf. Albertini's remarks on the character of French political literature at the beginning of the 17th century (*Denken*, 39), as well as Lemaire, *Lois*, 179 f., and Thuau, *Raison*, 141 f.

hardly appropriate to speak of a silent, unreflective traditionalism in the pre-revolutionary period. In what follows, we aim to reconstruct the ideological foundations of the *societas civilis*, which was already under serious threat, through its most representative formulations. We will also highlight its roots in ancient and scholastic thought and emphasize those aspects that facilitated the seamless transition to the conservatism of the post-revolutionary period.

The conservatism of the pre-revolutionary period neither called itself "conservatism" nor adopted any similar term. For anyone capable of analyzing thought structures both formally and historically, this is entirely insignificant. Even in the post-revolutionary period, the term "conservatism" was only coined after almost all major theoretical works of the movement now described as such had already been written. Moreover, the absence of this term in earlier centuries cannot be attributed to specific shortcomings in conservative political-theoretical awareness but rather to the fact that the age of grand generalizations and singularizations only began in the 18th century. However, "conservation" was discussed much earlier, initially in connection with the modern leitmotif of self-preservation, particularly the self-preservation of the state, which, at the latest since Machiavelli, was understood as an autonomous entity. Thus, "conservation" originally lacked a necessarily social-conservative connotation, encompassing, for instance, the efforts of a ruler who abolished noble privileges for the sake of general state welfare. It is noteworthy that proponents of traditional law quite early on linked "conservation," i.e., the self-preservation and continuity of the polity, to the *observation de ces anciennes lois* ("adherence to these ancient laws"²⁷⁰), thereby establishing a close connection between conservation in the state and conservation in the social sense. This connection is further emphasized by explicit references to the role of the nobility, which was said to concern²⁷¹ itself "par affection naturelle et par intérêt particulier" ("out of natural affection and particular interest") with the "conservation de l'État" ("preservation of the state") to the greatest extent or even represent *le principe conservateur de l'État* ("the conservative principle of the state"), while *le menu peuple plus enclin aux nouvelletéz* ("the common people") was "more inclined toward novelties."²⁷² The social aspect becomes even more apparent in the frequent cases where the estates insist on the "conservation," "preservation," or

²⁷⁰ 179. For example, Pierre d'Epinaç, a representative of the clergy in the *États Généraux* of Blois (1576), claimed something similar, as cited in Church, *Constitutional Thought*, p. 120. Seyssel also means more or less the same when he discusses the *conservation* of the monarchy and the state (e.g., *Monarchie*, pp. 142, 159, 203, etc.). Even in 1775, the Paris Parliament asserted that the *lois anciennes... les plus liées à la conservation de l'État* ("ancient laws... most tied to the preservation of the state") (Flammermont, *Remontrances*, II, p. 262).

²⁷¹ 180. Additionally, see Moreau, *Bibliographie*, I, p. 131, as well as *Mémoires de Condé*, IV, p. 396 (regarding the *Remontrances* of the Burgundian estates from 1563).

²⁷² 181. Similarly, in the *Année littéraire* of 1756 (as cited in Carcassone, *Montesquieu*, p. 225).

“maintaining” of their *bona, jura et privilegia* (goods, rights, and privileges) or “droits publics et particuliers” (public and particular rights).²⁷³ Sometimes, the “preservation of our privileges” is explicitly opposed to princely “innovations,”²⁷⁴ which we may view as a preliminary—albeit still vague—anticipation of the later dramatic dichotomy between conservative reaction and progress. However, for such a dichotomy to emerge, “reaction” and “progress” first had to be hypostatized.

b. The Primacy of the Naturally Evolving Societas over Government Authority and the (Late) Scholastic Contract Theory

In this section, the understanding of the *societas civilis* regarding its own origin and nature is to be outlined, as it was defended and further developed under the conditions of emerging modern statehood. At the center of our sketch shall once again stand the increasingly conscious opposition, in the 16th and 17th centuries, between the “natural” and the “arbitrary,” namely between the *societas*, which is subject to eternal divine-natural laws, and governmental authority, which, though arising from the *societas*, threatens through its voluntarism and activism to divide the naturally evolving *societas*, replacing the organic unity it embodies with unnatural and, therefore, politically and morally illegitimate antagonisms and dualisms. The demonstration of the primacy of the *societas* over governmental authority is undertaken within the framework of a general theory of human coexistence, with particular emphasis placed on the old socio-political principle that the governing instance does not constitute an independent entity or an adversary of the *societas*, but rather that organic part of it which bears special responsibility for maintaining the traditionally given whole. Early conservative thought polemicizes primarily against deviations of the governing instance from the normative precepts that are supposed to sustain this whole, as well as against the emergence of an independent, partial will that seeks to assert itself against the given whole in order to become the whole itself. With regard to the history of conservatism as an overarching phenomenon, it is secondary whether that part which seeks to constitute itself as a whole is the governing instance or a revolutionary sect; every attempt by partial instances to substitute the whole, to place their own subjective will in the position of the objective will of the whole, is rejected. However, according to the understanding of the *societas civilis*, the whole consisted of the *oikos* leaders, whereas what appeared as a part from the perspective of this whole—namely, governmental authority or the revolutionary

²⁷³ 182. Other examples such as the text from 1555 (Griffiths [ed.], *Representative Government*, p. 224), the text from 1649 (Bar, *Politik Pommerns*, p. 442), and the text from 1766 (Flammermont, *Remontrances*, II, p. 568).

²⁷⁴ 183. For example, in a complaint by the estates of Jülich and Berg to the emperor (September 1628), as found in *Landtagsakten von Jülich-Berg, 1624-1653*, p. 426.

sect—could itself appeal to another whole, namely the sum of all individuals, in the sense of its own socio-political aims.

A first proof of the primacy of the *societas* over the respective governing authority is provided by the claim that the *societas* is divinely and naturally ordained. It is not constituted by any human, and thus partial, will; rather, it is only within and through the *societas* that the constitution of a governing authority becomes possible. This principle was affirmed by many conservatives in the 16th century and was more systematically developed by the late scholastics, who drew on both Aristotle²⁷⁵ and Thomas Aquinas²⁷⁶. This view begins with the natural sociability of humans, which manifests at various levels of *societas*, in forms that vary but complement one another. Thus, the immediate family expands into the household community, the *oikos*, which in turn represents the fundamental unit of the *communitas* or *societas*.²⁷⁷ The components of the *communitas* may change, but it itself remains “*perpetua et semper eadem*”²⁷⁸ (“perpetual and always the same”) because it is not an artificial construct but something natural.²⁷⁹ The role of human will in the founding of the *communitas* is neither negligible nor dispensable. Humans, guided by their reason, recognize in the *communitas* the natural framework for compensating their biological deficiencies and satisfying their (higher) needs. Based on this insight, they come to an agreement to establish a community encompassing multiple households. However, this agreement is not an act that could simply be omitted; hence, the term “contract” can only be used in a loose sense here, as the absolute voluntariness of the contracting parties is not present. Humans are compelled to reach this agreement due to their inherent, that is, divinely given and willed sociability, so that this agreement must be understood as the unavoidable practical realization of the social drive. Thomas Aquinas already conceived this dual aspect of the founding of a *communitas* or *societas* as a seamless unity,²⁸⁰ and this perspective was followed by both his late scholastic disciples and other theorists of the *societas civilis* in the 16th century.²⁸¹ Whether the

²⁷⁵ 184. Regarding Sanchez Agesta, *Concepto del Estado*, pp. 51 ff.

²⁷⁶ 185. Regarding Tischleder, *Ursprung*, pp. 113 ff., as well as Carro, *Soto*, pp. 75 ff.

²⁷⁷ 186. See, for example, Suarez, *De legibus*, 3, 1, 3-4, and Molina, *De justitia et iure*, II, 22 = I, 10C-112C.

²⁷⁸ 187. Thus Suarez, *De legibus*, 1, 77.

²⁷⁹ 188. Thus Vitoria, *De potestate civili*, 4 = *Obras*, pp. 155-156.

²⁸⁰ 189. *Summa Theologica*, II-II, q. 94, art. 2c; see also q. 63, art. 1.

²⁸¹ 190. See, for example, Suarez, *De legibus*, 3, 2, 1-6 and 3, 3, 6, as well as *De opere sex dierum*, 5, 7, 3; Vitoria, *De potestate civili*, 4-5 and 10 = *Obras*, pp. 154 ff., 165 ff.; Hooker, *Ecclesiastical Polity*, I, 10, 1 = I, 239. The essential difference between this understanding of the contract and that of modern revolutionary natural law also arises from the fact that here only the *oikos* leaders are the contracting parties. This is particularly emphasized by Smith in his orthodox Aristotelian account of the formation of the Commonwealth (*De republica Anglorum*, I, 10-12).

drive to establish the *communitas* is moral or even physical can remain undecided here: its intensity remains the same in both cases, especially given its divine origin.

²⁸² The essential point is that the human will, which undoubtedly contributes to the founding of the *communitas*, in reality, fulfills precisely what nature, and therefore its Creator and Ruler, has ordained. Human consensus integrates itself into a pre-existing order as its subjective expression and outflow.²⁸³ Will and contracts thus have a predetermined content and would not hold validity if they were to oppose the overarching divine-natural order. In this sense, it can be said that the author of the human *communitas* is God Himself, through an inner law that He has implanted in humans.²⁸⁴ Only this higher origin of the *communitas* can explain and justify its authority over its members, which is evident both in the fact that no one can resist or escape its founding, and in its ability to impose the death penalty—something that would be illegitimate if it arose merely “*a collectione particularum potestatum singulorum*”²⁸⁵ (“from the aggregation of the particular powers of individuals”). This makes it clear that the *pactum societatis* in the understanding of the theorists of the *societas civilis* does not have a civil-legal sense and thus differs *toto coelo* (“by the whole heavens”) from the revolutionary-natural law social contract. However, it is also important to note its difference in character from the *pactum subiectionis*—a distinction that further clarifies the primacy of the *societas* over the governing authority from another perspective.

According to the unanimous views of the aforementioned theorists, *auctoritas* and *potestas* belong to the essence of the *societas* and are indispensable for achieving its aims.²⁸⁶ As such, they are just as divinely given and willed as the *societas* itself; the forms of association that arise from the realization of the social drive simultaneously constitute forms of *auctoritas* and *potestas*—“*potestas viri in uxorem, parentum in filios, dominorum in servos*” (“the power of husbands over wives, parents over children, masters over servants”), etc.²⁸⁷ The rooting of *auctoritas* and *potestas* as such in the essence of the *societas* and thus ultimately in the will of God does not, however, mean that the particular holder of governing authority derives their power directly from God. A distinction is made between *auctoritas* and *potestas* in themselves and their respective concrete manifestations, and it is assumed that the latter can only arise and function with the consent of the already existing *societas*, which concludes a *pactum subiectionis* with the chosen individual or collective

²⁸² 191. See Rommen, *Staatslehre*, pp. 109 f., 187 ff.; Kleinhappl, *Molina*, pp. 73, 76 ff.; Mesnard, *Essor*, p. 627 ff.

²⁸³ 192. See d'Addio, *L'idea*, pp. 378 f.

²⁸⁴ 193. Thus, for example, Buchanan, *De iure regni*, 11.

²⁸⁵ 194. See the analysis in Molina, *De iustitia et iure*, II, 22 = I, 114B-115E.

²⁸⁶ 195. See, for example, Vitoria, *De potestate civili*, 10-11, and Suarez, *De legibus*, 3, 1, 4 and 3, 2, 4.

²⁸⁷ 196. See, for example, Molina, *De iustitia et iure*, II, 22 = I, 10C-112C.

bearer of governing authority. *Autoritas* and *potestas* originally reside not in a part, but in the whole of the *communitas*. However, following the Aristotelian terminology of the late scholastics, they exist only as forms, which receive their respective matter through the will of the *communitas*. While they are, as such, of divine origin, their localization in specific bearers remains a human act and a matter of human convention, which also explains the variety of (legitimate) forms of government.²⁸⁸

From the preceding analysis, it becomes clear why contract theory, when presented with revolutionary intent, relies on the *pactum societatis*, whereas its conservative application places the *pactum subiectionis* at the forefront. Certainly, both *pacta* are fictions; however, the fiction of the *pactum subiectionis* was rooted in the practices of feudalism and the estates, allowing its anti-absolutist proponents and defenders to feel legitimized by tradition and history.²⁸⁹ Even in the 18th century, Boulainvilliers reminded his audience that *féodalité* was based on *convention* and *foi réciproque* ("mutual trust").²⁹⁰ The stronger historical character of the conservative appeal to the *pactum subiectionis* lay precisely in its presupposition of an already existing *societas*. This can already be observed among the *Monarchomachi* of the 16th century, who spent little time discussing the formation of the *societas* itself and instead spoke of contracts concluded between a people already living in *societas* and the (popularly elected) authority. Thus, these contracts represent more a formal confirmation of the existing traditional order than a voluntary civil-legal act in the modern sense. Precisely because the individualistic element is absent, the typical liberal-democratic recourse to the constitutive process of society plays little role here.²⁹¹ A similar approach to the problem of contracts appears in the socio-political perspective of the *Fronde*, whose pamphleteers adopted scholastic ideas second- or third-hand, primarily through the literature of the *Monarchomachi*, and accordingly focused exclusively on the contract of governance. They reminded the king of the obligations to uphold traditional law that he had automatically assumed upon taking office.²⁹² In the German context, too, the concept of the contract played an ideological key role in

²⁸⁸ 197. Suarez, *De legibus*, 3, 2, 3; 3, 24; and 7 AE; 3, 4, 1–5. Among non-scholastic authors, Hooker remains representative, particularly *Eccl. Pol.*, VIII, 2, 6 = III, 345. See the analysis of the overall concept in Bowe, *Origin*, 29 f., 43/4, 92 f., as well as Arnold, *Bellarmin*. The fact that Suarez misunderstands Vitoria and that both authors are fundamentally in agreement on this foundational question was already demonstrated by Soder, *Idee*, 47, and Hamilton, *Political Thought*, 37, 39.

²⁸⁹ 198. Naf, *Herrschaftsverträge*, 43 ff., as well as *Staat*, 115 ff.; Oestreich, *Geist*, 159; Figgis, *Political Thought*, 169

²⁹⁰ 199. *Histoire*, I, 156.

²⁹¹ 200. For a summary, see Kotowitsch, *Staatstheorien*, 89 ff., and Doolin, *Fronde*, 158 f. See, for instance, Lindeck, *Einfluss*, 31 ff., and Back, *Herzog*, 197 f.

²⁹² 201. For a summary, see Kotowitsch, *Staatstheorien*, 89 ff., and Doolin, *Fronde*, 158 f.

disputes between the estates and the princes, always referring to the governance contract. This contract was said to be concluded during the act of hereditary homage, based on the principle of reciprocity between protection and obedience, as well as the equality of the parties. As a *conventio*, it stood in opposition to any *impositio*, i.e., any form of coercion.²⁹³ Contracts, it was argued, formed the basis of the territorial constitution, and privileges were granted contractually, as compensation for rendered services, and thus could not be unilaterally revoked.²⁹⁴ The persistence with which Count von Finckenstein defended the “essence of the feudal contract”²⁹⁵ even in 1788 speaks volumes about the long-term historical impact of these theories concerning the relationship between *societas* and governmental authority. At the same time, it vividly illustrates their connection to the conservative movement after 1789.

The natural growth and structural immutability of the *societas*, compared to the elective and mutable nature of the form of government, as well as the associated difference in character and status between the *pactum societatis* and *pactum subiectionis*, are not the only theoretical supports for the primacy of the *societas* and the organic whole over governmental authority and the voluntarist part. Added to this is the notion that governmental authority, as *vis coerciva*, which must compel selfish and self-interested humans to obey the legal rules of the *societas*—if necessary through force and punishment—only became necessary *eventu peccati*, after the Fall. This specifically means that governmental authority has subordinate, albeit indispensable, tasks to fulfill; it is responsible for performing the “dirty work” within the *societas*, while the higher ethical goals for which the *societas* exists are entrusted to spiritual authority, namely, the Church. The Augustinian doctrine of the origin of governmental authority was emphasized by the papacy during the Investiture Controversy with the intent of reminding secular or imperial power of the limits of its essence and jurisdiction.²⁹⁶ The same doctrine was frequently invoked in the ceaseless medieval struggle against the figure of the “tyrant.”²⁹⁷ The synthesis of Augustinian and Aristotelian thought undertaken by Thomas Aquinas yielded the construction that, even in the state of innocence, there existed a *potestas directiva*; however, the *potestas coerciva* only arose as a consequence of the Fall.²⁹⁸

²⁹³ 202. See, for instance, Lindeck, *Einfluss*, 31 ff., and Back, *Herzog*, 197 f.

²⁹⁴ 203. See the Joint Concerns of the Prussian Estates from March 27, 1662, and their Declaration from December 3, 1661 = *Urkunden und Actenstücke*, XVI, 23, 25, 41ff., 47, and XV, 670. The Elector tended to respond that his office was granted to him by God and not through a contract, and that *salus provinciae* (the welfare of the province) was more important than privileges (*Urkunden*, XVI, 699, 782).

²⁹⁵ 204. See his memorandum on the situation of the Märkisch nobility, quoted in Veter, *Kurmärkischer Adel*, 24f.

²⁹⁶ 205. Cf. Gierke, *Althusius*, 62ff.

²⁹⁷ 206. Carlyle-Carlyle, *History*, III, 94, 160ff. and IV, 201, 286ff.

²⁹⁸ 207. *Summa Theologica*, I, qu. 96, art. 4.

This construction, later adopted by the late Scholastics,²⁹⁹ cast secular *auctoritas* and *potestas* in a somewhat more favorable light, but not to the extent that it could endanger the superiority of spiritual authority. For the late Scholastics, the purely secular character of governmental authority was not emphasized in a secularizing sense; on the contrary, it was intended to leave the ethical-religious domain—i.e., the highest goal of politics—exclusively to the Church. The thesis of the merely indirect divine sanction of a king elected by the people according to the *pactum subiectionis* aimed to demonstrate the primacy of the Pope, who alone receives his office directly from God.³⁰⁰ Thus, theological authors significantly contributed to reinforcing and spreading the conviction that governmental authority was something subordinate, meant to serve greater and nobler purposes, and prone to hubris whenever it developed independent will and action. In this way, the Augustinian tradition remained influential—and it even experienced a conscious revival after 1800, when counter-revolutionary conservatives viewed the modern sovereign state as the ultimate product of evil.³⁰¹ However, by “state” in this negative sense, they referred to the activist and voluntarist governmental authority of a time when the state had already come to signify the opposite of society. For the anti-absolutist conservatives of the 16th and 17th centuries, however, the state could be nothing other than the *societas*. One reason why the meaning of their texts, and especially their fundamental distinction between *societas* and governmental authority, has often gone unrecognized lies in the fact that *societas* has been translated as “state” and then unconsciously understood as “state” in the modern sense.

We have already noted that, in the conception of the *societas civilis*, both the *pactum subiectionis* and the *pactum societatis* lack voluntaristic traits; neither is intended to assert subjective intentions unilaterally. Instead, both articulate the mutual obligation of the decisive factors within the *societas* to respect the traditional order when regulating the modalities of their mutual relationships. Unlike the contract as understood by liberal-democratic natural law, the *pactum* does not create rights where none previously existed but is itself concluded on the basis of an already existing and eternally valid law.³⁰² This follows directly from the fundamental principle of the legal understanding of the *societas civilis*, according to which human law and legislation are binding only insofar as they represent an

²⁹⁹ 208. See, for instance, Suarez’s engagement with the Augustinian doctrine, *De legibus*, 3, 1, 12; cf. the analysis by Costello, *Political Philosophy of Molina*, 30.

³⁰⁰ 209. See, e.g., Suarez, *Defensio Fidei*, 3, 2, 1, and Soto, *De iustitia et iure*, IV, 4, 1 = fol. 107v–108r. Cf. the letter of the widow of the murdered Count of Guise to Pope Sixtus V (February 1589), quoted in Baumgartner, *Radical Reactionaries*, 108.

³⁰¹ 210. See below in Chapter III, Section 4a.

³⁰² 211. Cf. the remarks by Laures, *Mariana*, 58ff., and the additional aspect rightly emphasized by Lissarrague (*Teoría del Poder*, 45).

interpretation or application of divine law.³⁰³ Thus, obedience to the law and obedience to God are one and the same.³⁰⁴ The higher status of the *societas* over the government or royal authority is evident precisely in the fact that the latter remains bound by the commands of the immutable divine-natural law, which determines the structure and life of a healthy *societas*. Laws, therefore, derive their binding force not from the power position of their authors but from a higher authority.³⁰⁵ They are not commands or decisions issued by a necessarily limited, contingently pressured, and passion-driven subject. As a *Frondeur* wrote, invoking Aristotle: “L’empire de la loy... c’est quelque chose de divin, de permanent et d’incorruptible; l’empire absolu de l’homme seul est brutal”³⁰⁶ (“The rule of law... is something divine, permanent, and incorruptible; the absolute rule of man alone is brutal”).

Seen in this light, the customary opposition between objective law and subjective command amounts to a formulation of the desired subordination of governmental power to the *societas*. This traditional concept found legal expression in the theory of the *leges fundamentales*, which, particularly from the latter half of the 16th century onward, was systematized due to the growing mistrust of the *societas* toward absolutist governmental power and was employed well into the late 18th century.³⁰⁷ It holds that there are inviolable laws upon which social and political life has always rested and to which all individual governmental decisions and actions must conform. Accordingly, a distinction is drawn between the *lois du royaume* (laws of the kingdom) and the *lois du roi* (laws of the king), the former being immutable while the latter can be modified *selon la diversité des temps et des affaires*.³⁰⁸ In the language of the Prussian estates, *Landesverfassungen* (state

³⁰³ 212. Soto, *De iustitia*, I, 64 = fol. 185 (middle).

³⁰⁴ 213. Brutus, *Vindiciae contra tyrannos*, III = p. 138.

³⁰⁵ 214. Hooker's characteristic formulations, as found in *Eccl. Pol.*, VIII, 2, 12 = III, 352 and I, 10, 8 = I, 245, are notable. Compare Brutus in *Vindiciae*, III = p. 141.

³⁰⁶ 215. Moreau, *Choix*, II, 462.

³⁰⁷ 216. Lemaire, *Lois*, 71; and Dennert, *Ursprung*, 16 ff.

³⁰⁸ 217. Joly, in his *Traité* (p. 129), offers a similar formulation. On the same distinction, as it was made toward the end of the 16th century, see Lemaire, *Lois*, 105. The Paris Parlement relied on similar claims in its *Remontrance* of June 24, 1763 (*Flammermont*, II, 342), where it spoke of the “force irréfragable des lois immuables par leur nature, constitutives de l’économie de l’État” (“the irrefutable force of immutable laws by their nature, constitutive of the economy of the state”). See also the *Remontrances* of July 26, 1718, and April 9, 1753 (*Flammermont*, I, 95, 568). On the self-perception of the (Paris) Parlement as the guardian of fundamental laws, consult Lemaire, *Lois*, 166 f.; Brissaud, *Un libéral*, 51 ff.; Kotowitsch, *Staatstheorien*, 107; Doolin, *Fronde*, 68 ff.; Bickart, *Parlements*, 33 ff., 86 ff., 115 f.; Egret, *Louis XV*, 48, 904 ff. Regarding the amicable or hostile antagonism between Parlements and General Estates in this respect, see Bickart, *Parlements*, 249 ff., and Carcassone, *Montesquieu*, 251 f. On the *jus convocandi status* as a persistent point of contention in connection with the question of fundamental laws, consult Back, *Herzog*, 259 ff.; Carsten, *Princes*, 151, 156, 164; Breysig, *Entwicklung*, 69, 82; and Koser, *Zur preußischen Geschichte*, 338. For insights into how

constitutions) or *Fundamental-Landesverfassungen* (fundamental state constitutions) are contrasted with *Regierungsverwaltungen* (governmental administrations), with the former being granted absolute precedence and, somewhat hypocritically, claimed to be unalterable even by the estates themselves.³⁰⁹ When the estates speak of fundamental laws or constitutions, they do not envision a modern constitutional model—which could only be devised on the foundation of modern statehood—but rather those fundamental regulations aimed at preserving their own privileges, often addressing not only the relations between prince and estates but also those among the inhabitants of the land themselves. Nevertheless, the concept of *leges fundamentales* remained vague, which enabled its unlimited propagandistic use. Neither their number nor their precise scope of application was clearly defined, and the question of their origin also remained unresolved: at times, they appear as customary law binding both prince and estates equally; at other times, as the product of an agreement between the two sides.³¹⁰ This reflects the duality and ambiguity of traditional contract theory, as seen in the aforementioned distinction between *pactum societatis* and *pactum subiectionis*.

The outlined social-theoretical positions now converge into the practical-political doctrine concerning the rights and duties of the usual holder of governmental authority, namely the king. As mentioned, this doctrine is based on the conviction that the king is a part of the whole³¹¹ and must not, through force, attempt to make himself the whole out of the part that he is. The unity of *roi* and *état*, which Boulainvilliers still insisted upon,³¹² signifies precisely that the *societas civilis* must know neither opposition nor separation between the *populus* (as the collective of *oikos* leaders) and governmental authority. King and people are to together form a *corpus mysticum* or a *corps politique et mystique*.³¹³ In all that royal authority does, the spirit of the whole, the spirit of eternal law, is to prevail. At its core, this doctrine consists of medieval commonplaces that, not without reason, were partly rediscovered and recontextualized in the 16th century. They can be summarized as follows:³¹⁴ The “legitimate” prince is the *lex loquens* (the speaking law); he thinks and acts according to what the law commands, interpreting and applying it. His original function (in addition to that of a war leader) is judicial. He

absolutists sought to reinterpret the concept of fundamental laws in their favor, see Albertini, *Denken*, 61, 148.

³⁰⁹ 218. See also *Das Geeinigte Bedenken der Stände* from March 27, 1662, and their declaration of January 31, 1663 (*Urkunden und Actenstücke*, XVI, 25 ff., 334).

³¹⁰ 219. Regarding the above, Back, *Herzog*, 159 ff.

³¹¹ 220. *Princeps pars est reipublicae*, Suarez, *De legibus*, 3, 35, 6.

³¹² 221. *Histoire*, I, 33.

³¹³ 222. See, for example, the united resolution of the Prussian estates from September 5, 1674 = *Urkunden und Actenstücke*, XVI, 809, as well as Coquille, *Discours des Etats de France* = I, 277A. See also Suarez, *De legibus*, 1, 4, 19.

³¹⁴ 223. See sections 2 and 3b of this chapter.

enacts laws only on the basis of existing law, respects the lives and property of his subjects, and protects the “people” by allowing them to enjoy their freedoms.³¹⁵ The subordination of governmental authority to the *societas* is also demanded in the form of reminders that kings exist for the sake of the people, not the other way around; that they owe everything they possess to the “people,” especially as they were originally elected by the “people,” even if the latter acted under divine mandate in doing so.³¹⁶ The thesis of the explicit or (in the case of hereditary homage) implicit electability of kings further intensified debates over the content of the *pactum subiectionis*. It now became necessary—particularly in the context of a potential exercise of the right to resistance—to investigate and determine what share of the *potestas*, originally inherent in the *societas*, had been transferred to the king and to what extent the *societas* had reserved any rights during this transfer. Various conservative perspectives on this matter were presented, which do not require detailed examination here.³¹⁷ It should only be noted that these perspectives reflect the specific circumstances of the respective author, as well as the degree of compromise they were willing to make with emerging modern statehood.³¹⁸

The relevance of the described understanding of the nature of the *societas* and its relationship to governmental authority for the later development of conservative ideology can be illustrated with the example of Fénelon. His perspective simultaneously opposes two enemies: absolutism and the egalitarian-revolutionary natural law that, by the end of the 17th century, had already become clearly discernible in its contours and implications. Because of this

³¹⁵ 224. Typical formulations can be found especially in Brutus, *Vindiciae*, III = pp. 118, 131, 137, 139, 145, 150f, 184ff, 221; Beza, *De iure*, VI, p. 42; Buchanan, *De iure regni*, pp. 19, 20; Smith, *De republica Anglorum*, II, 3; Boulainvilliers, *Histoire*, I, 27, 31, 55, 100; Joly, *Traité*, 47; Declaration of the entire Prussian estates on January 31, 1663 = *Urkunden und Actenstücke*, XVI, 344. Good summaries of the views of Boucher, the main theorist of the Catholic League, are provided by Labitte, *Prédicateurs*, 166f, and Baumgartner, *Radical Reactionaries*, 127f.

³¹⁶ 225. Already in the speech by Philippe Pot at the *États Généraux* of Tours (1483) = Picot, *Histoire*, I, 410ff, as well as in Brutus, *Vindiciae*, III = p. 96, 99, 106f; Hotman, *Francogallia*, I, VI, VII, XIX = pp. 154, 220, 234, 398; Coquille, *Questions etc.*, I and CCCXI = I, 2, pp. 125, 332; Buchanan, *De iure regni*, 15f; Sturmberger, *Tschernembl*, 343f; Moreau, *Bibliographie*, II, 363; Kotowitsch, *Staatstheorien*, 114f; Joly, *Traité*, 41f, and Brissaud, *Un libéral*, 15. Even two years after the French Revolution, the Bohemian estates still invoked the election of kings as the basis of their obligations; see *Histor. Actenstücke*, 2nd issue, 69ff. On the prehistory of this view since patristics, see Lanseros, *Autoridad Civil*, 189ff.

³¹⁷ 226. Characteristic statements on this topic can be found in Molina, *De just.*, II, 23 = I, 118DE; Beza, *De iure*, VI = p. 68; Hooker, *Eccl. Pol.*, VIII, 2, 8-10 = III, 347; Buchanan, *De iure regni*, 80; Moreau, *Choix*, I, 451. For analyses of late scholastic views on this issue and their development into the 19th century, see Rommen, *Staatstheorie*, 188ff; Laures, *Mariana*, 236; Bowe, *Origin*, 56f; Costello, *Molina*, 40ff; Lissarague, *Teoría del Poder*, 50f; Lanseros, *Autoridad Civil*, 235ff.

³¹⁸ 227. See also above, Section 3a.

dual polemical aim, we can already hear echoes of themes that would be particularly significant to conservative authors around 1800.

As a continuator of the Aristotelian-Scholastic tradition, Fénelon believes in human sociability, which he understands as a function both of biological deficiencies and of higher intellectual needs. He describes the structure of the *communitas* according to the customary schema, beginning with the family or extended family and then tracing its branches and subsequent associations. Interestingly, he attempts to interpret the necessity of *autorité souveraine* not in Thomistic but rather in Augustinian terms, pointing to the Fall of Man and the end of the Golden Age.³¹⁹ Given the long and painful experiences with absolutism, government authority now had to appear less as a benevolent guardian of a healthy, organic *societas* and more as a necessary evil, particularly in light of the dangers from below, which Fénelon was acutely aware of.³²⁰

Fénelon's approach aligns with later counterrevolutionary conservatism not only in this regard but also in his direct opposition to egalitarian contract theory with the traditional theory of the origin of the *societas*. For Fénelon explicitly articulates the alternative, fully conscious and with great clarity. There are two great political schools, he writes. The one claims that humans are born equal and free, that they establish their communities through contracts and "*pour leur commodité particulière*," and that they appoint and dismiss their governments as they wish. The others, to which he belongs, maintain "*qu'antécédemment à tout contrat libre, nous naissons tous plus ou moins dépendants, inégaux, et membres de quelque société qui nous nous devons; que la forme du gouvernement étant une fois établie, il n'est pas permis aux particuliers de la troubler*".³²¹ These sentences, published in 1721, explicitly or implicitly contain all the fundamental principles that conservatives would later counterpose to revolutionary theory after 1789.

c. The Unity of Ethics and Politics and the Reason of State

For the legal understanding of *societas civilis*, the unity of ethics and politics was self-evident: if the law, under which the administration of the *societas*—i.e., politics in its traditional sense—operates, is of divine-natural origin, it necessarily coincides with ethics, which also originates from God. Divine truths, being inherently consistent with one another, are equally valid and binding by their very nature and status. Politics based on the legal framework of *societas civilis* and ethics therefore pursue the same ultimate purpose for which humanity was divinely ordained to live within a *societas*. In this spirit, the ideologues of *societas civilis* repeatedly

³¹⁹ 228. For the above, see *Essai sur le gouvernement civil*, II-VI = VII, 108-113.

³²⁰ 229. See above, Section 3b, notes 110 and 111.

³²¹ 230. *Essai sur le gouvernement civil*, I = VII, 104.

emphasized that it primarily serves an ethical purpose.³²² While this assumption followed in the tradition of Aristotle, the specific content of this purpose could not be understood in a purely Aristotelian-pagan sense, given the ideological dominance of Christianity. The practical monopolization of ideology by Christianity meant that its representatives had the final authority in defining the ultimate ethical purpose of the *societas*. This served as a powerful weapon in the medieval Church's struggle against its secular competitors, as the unity of politics with a Christian-defined ethics required that disputes on this matter—which were practically all-encompassing—be resolved on theological grounds. The absence of any other coherent ideology, however, also meant that non-theologians were compelled to argue within the framework of Christianity, whether in conflicts with the Church or among themselves. For instance, the nobility had to accuse royal authority of violating divine commandments and Christian ethics when protesting infringements on the law—that is, their own privileges. Thus, it was both a social and ideological necessity for the *societas'* efforts to restrain governmental power to be expressed through the principle of the unity of ethics (or religion) and politics. Practical applications of this principle in the 16th century included the theses that the king must submit to God and His commandments, distinguishing himself from the self-willed tyrant, and that subjects must obey divine rather than human laws, thereby granting them the right to passive or active resistance.³²³ The aim of aligning politics with Christian ethics here was to ensure that the bearer of political power adhered to a traditional politics that was as ancient and truthful as Christian ethics itself. The principle that the government does not create the law logically aligns with the unity of politics and ethics—leading to the significant implication that separating ethics from politics would enable the voluntaristic creation of law.

Since the law to which the government must remain subordinate guarantees the existing social hierarchy and, thus, the dominance of certain groups within the *societas*, the defense of the unity of ethics and politics, like the defense of law in general, ultimately amounts to a defense of that dominance. It is no coincidence, then, that the vehement opponents of Machiavellianism—this radical separation of ethics and politics—warn rulers of the inviolability of the *bienes de la Iglesia* (the possessions of the Church) and the *haciendas de su súbditos*³²⁴ (the estates of their subjects), or that they oppose the taxation of the nobility, regarding the destruction of the aristocracy as the primary aim of Machiavellianism: “*les gentilshommes... sont grands ennemis d'un tel estat politique que celuy que Machiavel a basti par ses escrits, c'est à dire d'un estat tyrannique*”³²⁵.” Under the specific conditions of the *societas civilis*, the

³²² 231. Thomas, *Summa Theologica*, III, q. 92, art. 1; q. 96, art. 2-3; q. 100, art. 1, objection 2; Suarez, *De legibus*, I, 6, 18.

³²³ 232. Characteristic formulations can be found in Brutus, *Vindiciae*, I = pp. 22f, 37, 42; Beza, *De iure*, I = p. 29; Ribadeneira, *Tratado*, II, 9 = p. 260.

³²⁴ 233. Ribadeneira, *Tratado*, I, 37-38 = p. 2031; II, 9 = p. 260.

³²⁵ 234. Gentillet, *Discours*, 148, 527, 528.

unity of ethics and politics underwent a specific interpretation that radically differed from today's common liberal or democratic conception of this same unity. To the extent that it ideologically legitimized the maintenance of the then-existing social hierarchy based on the interconnection between government authority and the *societas* (as the collective entity of the *Oikos* leaders), the "Machiavellian" separation of ethics and politics was necessarily intertwined with the emergence of the dualism between state and society. In this dualism, politics became the domain of the state, while ethics was relegated to the private sphere of individuals within a largely depoliticized society. Machiavelli's separation of ethics and politics (along with his reinterpretation of the latter, as noted below) implied precisely this, and it was understood as such by all parties. By the 17th century, absolutists openly declared that politics and ethics, or public and private morality, were entirely separate realms.³²⁶ Likewise, their critics accused them of precisely this conviction, "*que la politique et la piété chrétienne sont incompatibles,... qu'il y a une conscience pour les affaires de l'Etat et une pour les affaires particulières*"³²⁷. The realization that the separation of ethics and politics was accompanied by a division within the *societas*—as a government unmoored from ethics, claiming (a redefined) politics for itself, would inevitably treat the *Oikos* leaders as adversaries—gradually crystallized in the increasingly frequent and vocal complaints that Machiavelli and the Machiavellians were replacing the natural, patriarchal relationship between prince and subjects with mutual distrust and violence.³²⁸ They were accused of fundamentally misunderstanding the nature of the *societas*, which, contrary to their view, was not based on force but rather rooted in human needs and love.³²⁹ In this vein, conservative critics blamed Cardinal Richelieu for reducing everything to "force" and "autorité"³³⁰. From the conservative perspective, the division of the *societas* occurred because the prince, detached from the commands of Christian ethics, sought to monopolize the entire public and political realm under his own interpretative and coercive authority—an act that was characterized as the mere satisfaction of base ambitions. Among many similar examples, Fénelon asks the ruler whether what he calls the *nécessité de l'Etat* or *besoins de l'Etat* is not precisely what serves his own ambitions.³³¹

The separation of ethics or religion from politics, the monopolization and

³²⁶ 235. References in Thuau, *Raison*, 184, 205, 323. See also Church, *Richelieu*, 199.

³²⁷ 236. Jauly on Mazarin, cited in Cherel, *Pensée*, 125; The same issue arose in England, see Raab, *English Face*, especially 77 ff., 87 ff.

³²⁸ 237. An anonymous member of the League in a pamphlet published in 1589 = *Mémoires de la Ligue*, III, 527.

³²⁹ 238. Another anonymous member of the League in a pamphlet from the same year, cited in Baumgartner, *Radical Reactionaries*, 168.

³³⁰ 239. M. de Morgues, cited in Thuau, *Raison*, 127 ff.

³³¹ 240. *Examen de conscience...*, III § XIV = VII, 88.

simultaneous redefinition of the political by governmental power, and the accompanying division of the *societas*, which ultimately culminated in the dualism of state and society, were early and clearly understood in their unity by conservatives and labeled as Machiavellianism. The shock effect emanating from the work of the Florentine and its exposition of the concept of *raison d'état avant la lettre*³³² could not alone have caused this sharpening of awareness. There was a widespread sense that this work itself was a symptom of deeper changes and upheavals, and that Christendom was facing unprecedented problems, crises, and transformations.³³³ The actual upheaval found its conceptual expression in the radical reinterpretation of "politics" itself. Until then, this term had meant the wise and moderate administration of the *societas* in the spirit of divine-natural law and the tradition shaped by it. However, it now came to signify the voluntaristic efforts of governmental power to autonomize itself against the *societas* and its law, shaping them according to its own subjective ideas. The conservatives recognized this radical reinterpretation³³⁴ and, albeit unintentionally, contributed to its consolidation and dissemination by constantly speaking of the Machiavellian *politici*—albeit in a pejorative sense.³³⁵ Certainly, they wanted to adhere to the traditional usage of the term, and therefore also spoke of Machiavelli's "Pseudo-Politica"³³⁶ or coined neologisms like *Neopolitia* to denote the new

³³² 241. Ribadaneyra, *Tratado*, I, 37-38 = p. 2031; II, 9 = p. 260.

Gentillet, *Discours*, 148, 527, 528.

References in Thuau, *Raison*, 184, 205, 323. See also Church, *Richelieu*, 199.

Jauloy on Mazarin, cited in Cherel, *Pensée*, 125.

The same issue arose in England, see Raab, *English Face*, especially 77 ff., 87 ff.

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Another anonymous member of the League in a pamphlet from the same year, cited in Baumgartner, *Radical Reactionaries*, 168. M. de Morgues, cited in Thuau, *Raison*, 127 ff.

Examen de conscience..., III § XIV = VII, 88. See Polin, *Le concept*.

The essential information about the main figures and works of conservative anti-Machiavellianism can be found in Mattei, *Dal premachiavellismo* (1955), especially 974, and *Dal premachiavellismo* (1969), especially 154 ff., 221 ff.; Toffanin, *Machiavelli*, 87 ff. See also the works by Benéist, Tommasini, Cherel, and Sorrentino mentioned in the bibliography.

The related Tacitism debate is reconstructed in Toffanin, *Machiavelli*, 127 ff. (Chapters VI-IX); Stackelberg, *Tacitus*, especially 5 ff., 63 ff., 120 ff., 131 ff., 189 ff.; Thuau, *Raison*, 33 ff.

³³³ 242. The effects of this sentiment in the 16th century are very well emphasized by Lutz, *Ragione*, especially 45, 10.

³³⁴ 243. See, for example, the anonymous *Description du Politique* cited by Thuau (*Raison*, 150).

³³⁵ 244. A few examples among countless others can be found in Mattei, *Dal premachiavellismo* (1969), 234, 236, 237; Tommasini, *Vita*, I, 5 note 1, 22 note 1, 23. On this usage in 17th-century Germany, see Barner, *Barockrhetorik*, 141.

³³⁶ 245. In the title of a work by the German Jesuit Chr. Peller, see Sorrentino, *Antimachiavellismo*, 136.

meaning of *politica*. Yet, in the new situation, an unambiguous distinction from the latter could only be achieved by using adjectives like *christiana* or *sacra* (sc. *politica*).³³⁷ The specific difference between the old and new concepts of politics was thus sought not least in the decisive presence of the religious in the former. In contrast, the new politics, detached from Christian ethics, appeared as the embodiment of atheism and a spawn of hell. In a sentence that is also emblematic of the history of the concept of politics, Ribadaneyra wrote: "La peor y mas abominable secta que Satanás ha inventado, es una de los que aman Politicos (aunque ellos son indignos de tal nombre) salida del Inferno"³³⁸. Others claimed that Machiavelli's work was "*Satanae digito scriprum*," and that the author himself was "*Satanae filius*"³³⁹ or "*sceleratum Satanae organum*" and "*diabolicarum constitutionum faber optimus*"³⁴⁰. Generally, there was no doubt that the *politici* were not merely heretics but atheists—³⁴¹indeed, atheists *par excellence*—which is why they were succinctly called *Atheopolitici*.³⁴² When understood in all their implications, these statements recall the later conservative identification of the satanic character of the Revolution of 1789.³⁴³ For Machiavellian absolutism and the liberal-democratic revolution appeared from the ideological perspective of the *societas civilis* equally as hubris, as rebellion against divine order: the first to defy it, after all, was none other than Satan himself.³⁴⁴

The view held at the time that the roots of atheism were to be found in the doctrine of *raison d'État* stemmed from the same line of thought.³⁴⁵ For *raison*

³³⁷ 246. For example, in the titles of works by various authors such as Clément or Tommasi, see Sorrentino, *Antimachiavellismo*, 132f, 134f.

³³⁸ 247. *Tratado*, Epist. Ded., 5.

³³⁹ 248. Thus Pole, *Apologia ad Carolum...*, XXX = 55f.

³⁴⁰ 249. See Benoist, *Influence*, 169f, 181, cf. 175; idem, *Machiavéllisme*, III, 87.

³⁴¹ 250. Suarez, *De leg.*, 3, 12, 5, as well as Gentillet, *Discours*, 156: "les Machiavellistes (c'est-à-dire les Atheistes des nostre temps)."

³⁴² 251. As stated by the Jesuit Clément, cited in Mattei, *Dal premachiavellismo* (1969), 244.

³⁴³ 252. Cf. Chapter III, Sections 3a, 6a.

³⁴⁴ 253. In the 17th century, statements were made that prefigure the association of social and metaphysical revolution, which became widespread after 1800. For example, a pamphleteer during the time of the Fronde writes, "Republics are imitations or perfect expressions of the rebellion of angels" (Moreau, *Bibl.*, I, 31). The Jesuit Contzen makes the Dostoyevskian statement: "If there is no God, then everything is permitted" (quoted in Thuau, *Raison*, 103). And Seckendorff (*Christen-Staat*, Add. to I, 1 § 15 = 613) defines atheism as prioritizing the earthly over the divine, as essentially a bestial pursuit of happiness in this world. This worldly, anti-ascetic eudaimonism, associated with the acknowledgment of human rights and thus culminating in the deification of humanity and atheism, was also considered by conservatives around 1800 to be a fundamental characteristic of revolutionary ideology (cf. Chapter III, Sections 2, 3a).

³⁴⁵ 254. Cf. the sentence by Melliet cited by Cherel (*Pensée*, 101).

d'État essentially means that the secular (in this case, the state, specifically in the sense of voluntaristic governmental power) has its own needs and its own logic, which partly presupposed and partly led to the separation of (religiously defined) ethics and politics. The existence and operation of an autonomous *raison d'État* thus testified that not everything in this world had to be under the aegis of God. The autonomization of the human through *raison d'État* also had a second, equally significant aspect. It implied not only that the state or the secular had its own reason and thus intrinsic value, but also that there existed a reason that could and would detach itself from all other considerations and concerns to dedicate itself exclusively to the state or the secular. However, since the state attained its autonomy precisely through the separation of ethics and politics, the reason that was to serve it also had to be purely political reason, which meant two things: purely secular-human and purely instrumental-rational. The autonomization of humanity thus went hand in hand with the detachment of reason from the ethical-religious and the discovery of naked instrumental rationality. Since reason guided by God could never and should never have abandoned the unity of ethics and politics, the abandonment of that unity had to be the work of reason left to its own devices. This dramatic transformation of the concept of reason,³⁴⁶ which until then had always and necessarily included a normative dimension, was well understood, particularly in connection with the problem of *raison d'État*. The coupling of state and reason in the expression *ragione di stato* was challenged with the argument that a reason detached from God did not deserve the name at all; *ratio* should always pertain to *ius*, not to *status*—and *ius*, in turn, had to retain its original ethical meaning, from which it followed that a *ius dominationis* was as much an absurdity as a *ratio status*.³⁴⁷ It was, of course, natural to outright reject any *ragione di stato* and continue to recommend adherence to divine-natural law in the traditional sense, as did authors who explicitly adhered to Aristotle's concept of politics against the new conception of the political.³⁴⁸ Given the factual establishment of the term, however, another tactic seemed more effective—namely, to distinguish between good and bad, true and false *raison d'État*, and to identify the former with the mandates of politics bound to (Christian) ethics.³⁴⁹ Accordingly, good *raison d'État* meant that the common interest had a natural priority over the personal interests of the ruler; the ruler's attitude toward religion and the church served as an important criterion in determining whether the common interest was being served.³⁵⁰ What is telling of the new situation and

³⁴⁶ 255. See Kondylis, *Aufklärung*, 153ff, 325.

³⁴⁷ 256. References in Mattei, *Problema*, VI, 417; IX, 370ff; XI, 171.

³⁴⁸ 257. References in Mattei, *Problema*, VIII, 455f, esp. 459f.

³⁴⁹ 258. Typical in Ribadaneira, *Tratado*, 20. Other references in Church, *Richelieu*, 42ff, 65ff; Thuau, *Raison*, 116f; Mattei, *Problema*, VII, 448ff.

³⁵⁰ 259. Additional examples in Mattei, *Problema*, VI, 412f.

constraints is the fact that conservatives not only had to employ this ominous expression but also, in discussing it from their own perspective, could not always avoid concessions to secular logic of expediency—only intensifying their nostalgia for the unequivocal nature of the old concept of politics.³⁵¹ However, the use of absolutist favorite terms by conservatives did not bring about any rapprochement between the two sides; it merely made the question of interpretation more acute and the associated question of power more visible.³⁵²

The autonomy of the secular realm inherent in the concept of *raison d'état*—in both the dimensions of the state and human reason—manifested practically in the emerging modern state's effort to subordinate religion and the church to its laws or even exploit them for its purposes. From the state's secular perspective, the utility of religion, not its truth, was paramount. The primacy of the state and the instrumentalization of religion went hand in hand, which is why conservatives had to defend the primacy of ethical and religious truth against the principle of utility and the principle of preserving the state (in its new sense) at all costs.³⁵³ However, the primacy of religion was also threatened in another way. We have already explained why the separation of ethics and politics had to coincide with the division of private and public spheres. Wherever the new state succeeded in dissolving the unity of *societas* and government, the now state-immediate individual was obliged to obey civil laws regardless of what they believed *in foro interno*. Thus, legality and morality diverged. This meant that religious belief became a private matter of the individual, and, given the fundamental equality of all individuals before the (new) state, all religious convictions were, from the state's perspective, of equal value and equally to be tolerated. The principle of tolerance therefore encapsulates the entire multidimensional process summarized here. In both the 16th and 19th centuries, conservatives necessarily attacked this principle, particularly as, in the theory and practice of the *societas civilis*, the ethical purpose that the *communitas* and *potestas* were meant to serve was intertwined with the prohibition and persecution of "atheism."³⁵⁴ Early conservative polemics against the principle of tolerance reflect an awareness of its intrinsic connection with

³⁵¹ 260. See the presentation of the views of Botero and Ammirato in Mattei, *Problema*, III, 28f, 33f; IV, 343ff, 339, 352; VI, 408ff, 415.

³⁵² 261. "It is only to be regretted that *salus publica* is not considered in the same manner by E. Ch. D. and the estates." Thus, in the *Vereinigttes Bedenken der preußischen Stände* of September 5, 1674 = *Urkunden und Actenstücke*, XVI, 809. Moser allows the principle "the best of the state is the supreme law" only under the condition that the definition of this best is not exclusively a matter for the ruler (*Von den Teutschen Landen*, 1187).

³⁵³ 262. Typical statements in Ribadaneyra, *Tratado*, 13 (*Al Christiano Lector*) and I,1 = p. 25; *Mémoires de la Ligue*, III, 525 (anonymous pamphlet from 1589). A contemporary observer defined the *Politiques* as follows: "those who join religion to the state and not the state to religion" (quoted in Labitte, *Prédicateurs*, 176).

³⁵⁴ 263. Thomas, *Summa Theologiae*, II-II, qu. 1, art. 3. Cf. above note 231.

modern statehood in its detachment from the traditional unity of ethics, religion, and politics. It was observed that freedom of conscience could only assert itself as a result of the instrumentalization of religion based on the primacy of the secular criterion of *raison d'état*.³⁵⁵ From a pragmatic perspective, it was also pointed out that tolerance would not bring the desired pacification but rather the dissolution of the community through intellectual anarchy and inevitable conflicts of all against all.³⁵⁶ Both Catholics and Protestants, during the religious wars, were proponents of the traditional unity of religion and politics and fundamentally opposed the principle of tolerance, though they sometimes invoked it for tactical reasons (namely, when they were temporarily the persecuted). Under such circumstances, it was natural that not the religious moralists but the pragmatists of *raison d'état*, not the various churches but the modern states, facilitated the enforcement of tolerance and freedom of conscience—though in some cases, *raison d'état* itself demanded religious uniformity.³⁵⁷ This fact did not prevent conservatives, even in the 18th century, from loudly asserting that true tolerance resided in the spirit of religion, while *raison d'état* was the most intolerant force of all.³⁵⁸

The *societas civilis* could base its ideology on the assumption of an eternal law and a unity of (religiously influenced) ethics and politics because it believed itself to be eternally established and once and for all constituted, *iam constituta*. Given the divine origin and eternal validity of the norms upon which its life was founded, a state in which these norms would become obsolete was inconceivable. In other words: due to the specific character of the assumed norms, the state in which norms prevail—that is, normality—was the only one theoretically conceivable; the political thought of the *societas civilis* therefore developed no specific theory of the state of exception (namely, one in which normality and norms are suspended), whether in the context of external or internal emergencies. It was precisely this weak point that the theorists of *raison d'état* exploited, developing their doctrine by placing the non-normal state, one without norms—that is, the state of exception—at the center of their attention.³⁵⁹ The conservatives, who were fully aware of the consequences of approaching the political from the perspective of the state of exception, had to do precisely the opposite if they wished to preserve the traditional view that no condition could suspend eternal law and eternal norms.³⁶⁰

³⁵⁵ 264. The chapters Ribadaneyra dedicates to combating the principle of tolerance, *Tratado*, I, 23–29 = pp. 181ff.

³⁵⁶ 265. *Ibid.*, I, 26–28 = pp. 148f. Cf. the unified concerns of the Lutheran Prussian estates from March 27, 1662 = *Urkunden und Actenstücke*, XVI, 31.

³⁵⁷ 266. Stankiewicz, *Politics*, 7f; Yardeni, *Conscience*, 81ff, 176ff; Sturmberger, *Tschernembl*, 350ff; Scheuner, *Staatsräson*, *passim*; Caprariis, *Propaganda*, 105ff, 120, 130ff, 134.

³⁵⁸ 267. Mirabeau, *Ami des hommes*, 245.

³⁵⁹ 268. Weinacht, *Fünf Thesen*; Freund, *La situation exceptionnelle*.

³⁶⁰ 269. So notes, for instance, Hale, that Hobbes constructs his political theory from the

In foreign policy, they sought to downplay the state of exception, which here appears as war, by adhering to the old concept of *iustum bellum* and condemning any dynamic expansionism, particularly when linked with absolutist ambitions and “Machiavellian” behavior. The protracted struggles over taxation during wartime, as well as the recognition that even according to the legal conception of the *societas civilis*, the king could act “absolutely” primarily in times of war, had taught them that intensive and conflict-ridden foreign policy could have very unpleasant domestic consequences—indeed, it could even be pursued by the prince in anticipation of such consequences. Conservatively and anti-absolutistically minded individuals in the 16th century and later often argued that “good” foreign policy *raison d'état* forbade conquests and instead consisted of “*conservare i dominii giustamente acquistati*”³⁶¹ (“preserving dominions justly acquired”). Should the state of exception in foreign policy, i.e., war, nevertheless arise, it then seemed necessary to behave in such a way that it did not appear as an exceptional state that shattered all normality and norms; not only treaties in general but also the rules of war were to be strictly observed, unnecessary destruction avoided, etc.³⁶² Domestically, they sought to banish the state of exception and its associated *coups d'état*³⁶³ through the open conduct of the *negotia statuum*, as was supposedly customary in the old *concilium publicum*.³⁶⁴ The conservative aversion to the *arcana imperii* and any *politique secrète*³⁶⁵ had a solid basis. For secret politics meant independent and uncontrolled actions, that is, the autonomization of the governing power, which, to the extent it evaded the oversight of the public *societas*, violated norms and normality and could freely indulge in Machiavellian *coups d'état*. By contrast, the public conduct of state affairs seemed to guarantee the control or predominance of the *societas* and thus also the unity of ethics and politics, as a politically ethical and legally justified governance would have no need to hide from anyone.

One aspect of this issue deserves particular attention. The absolutist proponents of the doctrine of *raison d'État* defended their departure from the

state of exception, i.e., guided by the intent to forever banish the danger of rebellion and civil war. Hale counters by stating that “the Method and Modelling of Governments are to be fitted to what is the Common and Ordinary State of things ad Plurimum, because mankind have most Ordinarily to doe with Such Circumstances of affaires as most usually happen. And it is a Madness to thinke that the Modell of Laws or Government is to be framed according to Such Circumstances as very rarely occurre” (*Reflections*, 512).

³⁶¹ 270. Mattei, *Problema*, IV, 340. Even Botero prioritizes *conservare*, though he includes *fondare* and *ampliare un dominio* among the tasks of *ragione di stato* (ibid., III, 276).

³⁶² 271. Fénelon, *Examen de conscience*, III § XXVI-XXXII = VII, 92-95. Cf., e.g., Joly, *Traité*, 80, which references Seyssel, among others.

³⁶³ 272. Regarding the meaning of the term in the 17th century, see Thuau, *Raison*, 396.

³⁶⁴ 273. Cf., e.g., Hotman, *Francogallia* [XIV] = S. 332.

³⁶⁵ 274. Moreau, *Choix*, I, 345, or 315.

traditional doctrine of the unity of ethics and politics, as well as their understanding of politics more in terms of the state of exception than of norms and normality, with the argument that general and abstract theories were inadequate for addressing concrete problems in specific situations. This idea emerged during Machiavelli's time and independently of him,³⁶⁶ though it is also implied in the Florentine's work, even if not expressed explicitly. For conservatives, however, the opposition between purposive rational politics and eternally valid ethical-political principles was part of the mindset of every "Machiavellian" politician. Thus, Cardinal Pole attributes to the alleged admirer of Machiavelli, Chancellor Thomas Cromwell, the conviction that what is taught in *scholis* about political questions may be approved by the many—*sed in secretis consiliis haec parvum valere, insipida esse, non modo nullum applausum excitantia, sed, si saepius dicerentur, nauseam... Quare multum interesse, quid a quoquam dicatur, quo tempore, quo loco, et apud quos*—all things that *sola experientia docere potest* and no scholastic treatise could teach.³⁶⁷ Likewise, L'Hôpital stated in 1561: "*il ne faut considérer seulement si la loi est juste en soi, mais si elle est convenable aux temps et aux hommes pour lesquels elle est faite*"³⁶⁸, and similarly, Richelieu's political propagandists, as well as the Cardinal himself, claimed that it would be disastrous for the state to attempt to apply universal principles taken from unrealistic books to all lands and peoples without regard for place, time, and persons.³⁶⁹ The ideological front of the 16th and 17th centuries thus revealed that it was not the conservatives, but their opponents, who championed concreteness and empirical orientation in political matters, while the conservatives had to entrench themselves behind universal principles to defend the unity of ethics and politics. However, it would be incorrect to conclude that early conservatism fundamentally differs in this respect from counterrevolutionary conservatism, which famously opposed concrete and empirical politics to so-called abstract revolutionary metaphysics. As already explained, the concepts of the abstract and the concrete themselves represent constructions that are polemically conceived and employed with polemical intent.³⁷⁰ Thus, it must always be asked in

³⁶⁶ 275. As Pontano notes, he cannot imagine a pure ethics among humans, for he sees man as "living in a city, in the company of men, occupied daily with many matters and measuring not only actions but also time, place, persons, and affairs" (*De oboedientia*, IV, 17, cited in Lutz, *Ragione*, 20, note 9).

³⁶⁷ 276. *Apologia ad Carolum Quintum*, XXIII-XXIX. It is doubtful, of course, whether Cromwell knew *Il Principe* as early as 1528, since it was not published until 1532. Pole, a defender of ethics, could, however, as demonstrated in other instances, also lie when it seemed expedient (cf. Dickens, *Cromwell*, 77ff., 93ff.). His account nevertheless captures the internal logic of the absolutist position, as numerous other examples from that time attest.

³⁶⁸ 277. *Harangue à l'assemblée des états-généraux* (26.8.1561), cited in Church, *Constit. Thought*, 206, note 30.

³⁶⁹ 278. References in Albertini, *Denken*, 176.

³⁷⁰ 279. See also Chapter I, Section 2.

what respect the concrete is defended and the abstract condemned, or vice versa. Counterrevolutionary conservatives also defended the necessarily universalist unity of ethics and politics against the alleged revolutionary amorality and Satanism, just as, conversely, anti-absolutist conservatives defended Christian universalism against the relativism of the absolutists and, in parallel, tradition and continuity—empirically grounded politics—against the arbitrariness and activism of abstract reason.³⁷¹

The absolutists (the *étatistes* or *statistas*) demonstrated their ability to conduct politics in accordance with existing circumstances and possibilities by carefully avoiding any compromising glorification of Machiavelli while simultaneously offering lip service to the principle of the king's subjection to divine law. However, they did not fundamentally depart from their modern sovereignty-based conception or make any substantial practical concessions.³⁷² Even the conservatives, while adhering to the theoretical unity of ethics and politics, had to adapt practically. This unity was conceived universally and thus reflected the ideological counterpart to the factual homogeneity of the pre-state *civitas christiana*. Its dissolution, therefore, signified the collapse of the latter. As much as conservatives wished to preserve the unity of the *civitas christiana*, they had to acknowledge the rise of autonomous states as actors in a new type of international politics. The late scholastics addressed this reality by attempting to reinterpret the relationship between papal *potestas* and secular powers in light of the new circumstances. For them, it remained certain that papal *potestas* was superior to secular authority since it alone derived directly from God, and they continued to defend the exclusive jurisdiction of the Church in *spiritualibus*. However, they denied the pope *jurisdictio in temporalibus* and the right to appoint or depose kings, advising utmost caution whenever the Church intervened in secular matters—an indication of the new balance of power.³⁷³ This (at least indirect) acknowledgment of the dissolution of the universal *civitas christiana* enabled the late scholastic foundation of international law (*jus gentium*). Modern *jus gentium* emerged from an effort to reconcile the traditional idea of human unity with the new reality of sovereign states. For

³⁷¹ 280. See the next section.

³⁷² 281. Various aspects of this problem, which, however, lie outside our scope, are explored through French absolutist literature by Church, *Richelieu*, especially pp. 33, 50, 416ff; Albertini, *Denken*, pp. 40ff, 91ff, 191f; Thuau, *Raison*, pp. 334ff; Kotowitzsch, *Staatstheorien*, pp. 54, 98; Caprariis, *Propaganda*, pp. 285ff.

³⁷³ 282. Typical examples in Molina, *De just.*, II, 29. See the summarized account by Hamilton, *Polit. Thought*, pp. 82ff. Conservatives such as Hotman (*Francogallia*, XVI) or Coquille (*Dialogue sur les causes des misères* = I, 214B) hold similar views. Even Fénelon considers the papal *potestas directa* "absurd and pernicious" and opposes significant interference by Rome in national church matters. However, he also believes that the autonomy of the Church is now more threatened by the king than by the pope (*Plans de gouvernement*, II § IV = VII, 185f). This implies that an appeal to the pope still remained a possible conservative response to encroachments by secular governmental power.

example, Suarez posited a unified humanity while adding that it consisted of multiple *corpora politica*.³⁷⁴ In this synthesis, the concept of a unified humanity, bound by universal norms in its unity, served to subject the state, despite its autonomy, to an ethical idea. This reinforced the position of those who presented themselves as the authorized interpreters of this ethical idea. In this way, the *civitas christiana* was preserved to some extent, with its influence persisting into the 19th century: the interventionist rights of counterrevolutionary great powers, as advocated by Burke or Gentz, and the concept of the Holy Alliance were rooted in this conservative understanding of international law. This connection becomes especially evident in Fénelon's theory of the balance of power among autonomous states within Christendom. According to Fénelon, Christendom constitutes a kind of "general republic," and the members of this great body are obligated, by the idea of a *bien commun* as well as their own self-interest, to respect the balance of power and undertake joint efforts to subdue any nation that threatens to disrupt this balance for its own gain: "*l'humanité met donc un devoir mutuel de défense de salut commun*"³⁷⁵. Here, the ideas of humanity, Christendom, and statehood are combined in such a way that the latter loses its inviolability and thus its absolute value.

There is also further evidence of the unavoidable adaptation of conservatives to the new reality created by the sovereign state. For instance, they occasionally rejected tolerance using arguments based on *raison d'État*, or they tacitly adopted the utility criterion in matters of religion to argue against the respective "heretics," claiming that one undivided religion provided the best guarantee for the unity and stability of the state. Moreover, the traditional cosmopolitanism within the framework of the *civitas christiana* could no longer be practiced without consequences, as a new loyalty—namely to one's own state—began to appear decisive to an increasing number of people. This was particularly evident to the Spain-aligned faction of the Catholic League in France, which eventually had to resort to patriotic arguments, just as the Protestant side did.³⁷⁶ The state had now become so powerful that the unity of state and religion, insofar as it remained a conservative goal, could only be realized under the state's aegis. When Hooker propagated that unity in the 16th century, he no longer referred to the theory of the two swords but rather to the radically different English identification of the head of state with the head of the church, aiming to counter revolutionary claims disguised in theocratic garments. The Puritan demand for an autonomous and egalitarian organization of the church essentially expressed a desire to transfer the superior structure of the reformed church to the state as a whole at a later stage. Thus, the separation and structural distinctness of church and state posed a threat to the

³⁷⁴ 283. *De leg.*, 2, 19, 9 and 3, 2, 6. On the justification of international law in Vitoria and Soto, see Mesnard, *Essor*, pp. 463ff, and Carro, *Soto*, pp. 301ff.

³⁷⁵ 284. *Supplément à l'examen etc.*, I = VII, 99. See also Chapter III, Section 4a.

³⁷⁶ 285. For the above references: Yardeni, *Conscience*, 104ff., 133, 183ff., 205, 230ff., 239.

existing state. When Hooker advocated the unity of church and civil society against Puritan separation,³⁷⁷ he was more concerned with preserving the secular hierarchy than reviving the medieval ideal. The fact that, in his view, the monarchy was to be the guarantor of this hierarchy serves as further evidence of the conservative willingness to compromise with the new state.³⁷⁸ The government had now strengthened itself to such an extent that the *societas* had to turn to it to ensure its own preservation. This made adaptation not merely a bitter necessity but also a self-evident *modus vivendi* that invited reinterpretations of the new reality. For instance, Pütter noted the strengthening of territorial rulers in Germany after 1648 and drew the desired conclusion that the princes were now strong enough to achieve the good (in the sense of the *societas*³⁷⁹). The appeal to the conscience of the prince became essential because it now depended on him.³⁸⁰ However, this strategy of adaptation also required certain concessions in theoretical and ideological matters. Despite their rejection of *raison d'État*, conservatives had to acknowledge the separation of religion and politics to a certain extent and elevate the utility criterion in *politicis*. These shifts often occurred within the preexisting scholastic-Aristotelian framework and produced intermediary positions that could at least nominally be accepted by moderate absolutists as well as compromise-ready representatives of the *societas*, which was on its way to becoming a society.³⁸¹

d. The Hubris of Autonomous Reason and the Appeal to Tradition and History

The struggle against the claim of human, specifically individual, reason to determine good and evil based on its own autonomous criteria and to shape social life accordingly has been central to conservative thought, not only since 1789 but as early as the 16th century. As previously shown, the doctrine of *raison d'état* implied not only the independence of governmental authority from the *societas* but also the emancipation of human reason from the dictates of traditional divine-natural law. It is no coincidence that Gentillet pointed out that Machiavelli's atheistic followers "prennent pour fondement la raison humaine," which, in his view, fails before the truths of revelation or should lead to faith if it functions correctly and grasps the teleological structure of the world.³⁸² During Richelieu's time, when the French

³⁷⁷ 286. Eccl. Pol., VII, 1–2 = III, 329.

³⁷⁸ 287. See also Chapter II, Section 3a.

³⁷⁹ 288. *Hist. Entw.*, II, 184.

³⁸⁰ 289. See Maier, *Polizei*, 161ff., especially 167.

³⁸¹ 290. On such intermediary positions in the German context, see Brickner, *Staatswiss.*, 154–163. Compare Maier, *Pol. Wiss.*, 22, 31.

³⁸² 291. *Discours*, 159ff.

dévots waged intellectual battles against the *étatistes*, they insisted on situating political thought within a broader theological framework. They argued that human reason could scarcely organize social-political life satisfactorily unless it was oriented toward higher metaphysical principles.³⁸³ The subordination of human reason to God or to the hierarchically structured *societas* as the visible embodiment of divine will was intended to counteract *hybris*—the notion that humanity could establish order in the world through its own capacities. However, *hybris* is not overcome merely by invoking God on behalf of individual or sectarian reason. True obedience to God is achieved only when individual or partial reason submits to collective reason as crystallized in the hierarchical order of the *societas*. Hooker emphasizes this against the Puritans, who otherwise lacked no piety. Personal morality, he writes, does not necessarily enable one to become a good member of the *societas*. Morally upright individuals often judge political and ecclesiastical matters “by what rule they frame to themselves” and find everything wrong with the established order. “Thus, by following the law of private reason, where the law of public reason should take place, they breed disturbance³⁸⁴.” The critical opposition, therefore, is between partial or private reason and collective or public reason, embodied in existing institutions. Only the latter is truly reliable, as the Prussian Estates once formulated: “*singuli decipere possunt et decipi, nemo omnes, neminem omnes fefellerunt*”³⁸⁵ (individuals can deceive and be deceived; no one deceives everyone, and no one is deceived by everyone).

The contrast between collective and partial reason is also evident in Coke's distinction between *artificial* and *natural reason*, later adopted by Burke. Coke calls the reason of individuals “natural,” describing it as raw and untrained in grasping larger connections, leading individuals to think they are wiser than existing laws and institutions. Conversely, “artificial” reason in Coke's terminology does not mean something deviating from nature in the sense of divine order or arbitrarily fabricated principles. Rather, it resists spontaneous or impulsive inclinations and strives to use every possible art to understand the objectively reasoned law through study and experience, ultimately identifying with it. For Coke, the law is a collective work of successive generations, and no conscious effort by individuals, however intelligent, can replace the accumulated wisdom and experience within it: “*This legal reason est summa ratio*”³⁸⁶. Therefore, “artificial reason” essentially dissolves the natural reason of individuals into the collective reason of traditional law—but in such a way that the reason of educated individuals, shaped by study and experience, consciously contributes to the collective work in response to the needs of the moment. This is not mere unreflective traditionalism. Coke ranks

³⁸³ 292. Thuau, *Raison*, 142.

³⁸⁴ 293. Eccl. Pol. I, 16,6 = I, 282.

³⁸⁵ 294. Geeinigtes Bedenken vom 27. 3. 1662 = Urkunden und Actenstücke, XVI, 24.

³⁸⁶ 295. T Inst., 97b.

customary law under common law and parliamentary statutes third,³⁸⁷ acknowledging Parliament's right to amend the common law and customary law through its statutes, which are "the highest and most binding laws."³⁸⁸ This does not mean, however, that Parliament can deal with the common law as it pleases, especially since altering old legal maxims is a dangerous matter.³⁸⁹ The changes made by Parliament do not have an arbitrary or voluntaristic character but are instead the work of collective reason; for Parliament does not represent a part distinct from or opposed to the whole, but rather constitutes the entire political body, as it includes the king and all the "lords spiritual and temporal, knights, citizens, and burgesses"; thus, "*there is ultimum sapientiae*"³⁹⁰. Changes initiated by the whole, maintaining harmony among its parts, stand in stark opposition to those originating from a part, disrupting the balance or distributive justice underpinning hierarchy. As the embodiment of the political body and communal continuity, Parliament cannot dissolve itself or abolish common law, even as it modifies it in specific instances. Such modifications, undertaken by the living bearers of tradition, are seen as affirmations of the whole, reinforcing the social body's functionality and heritage. Changes addressing new needs are carried out as if nothing had changed. The medieval fiction that legal changes were merely interpretations of existing law persists,³⁹¹ allowing the collective reason to meet present needs while the traditional authority of its interpreters remains unchallenged. This intertwining of glorification and manipulation of tradition underscores how history and tradition are not fixed constants but a flexible collection of precedents selectively utilized.³⁹² The cohesion and organic unity of this sum are maintained by the continuity of the ruling class, ideologically projected as enduring tradition and collective reason.

Another renowned English jurist of the 17th century, namely Hale, articulated the early conservative rejection of autonomous reason in a manner that almost verbatim prefigures conservative arguments after 1789. This occurred—not coincidentally—in direct polemic against Hobbes's political theory, specifically its attempt to construct the state or society rationally *ex nihilo*. With a jab at Hobbes's use of the geometric method, Hale remarked that political and historical phenomena do not possess the same degree of certainty as mathematics, and

³⁸⁷ 296. T Inst., 3444.

³⁸⁸ 297. 297. T Inst., 115b.; II Inst., Proeme; II Inst., 2 Ed, 6. Cap. 13 = S. 664. Vgl. Hale, History, 88, 89.

³⁸⁹ 298. I Inst., 282b; II Inst., Merton., c. 9 = S. 97.

³⁹⁰ 299. IV Inst., c. 1 = S. 2f.

³⁹¹ 300. Regarding the specific intertwining of this fiction with English judicial practice, see Schell, *Engl. Rechtsd.*, 20 ff.

³⁹² 301. This is also the case with Coke; see the analysis by Hill, *Intell. Origins*, particularly 250 ff.

therefore the *a priori* construction of a human *communitas* could never succeed.³⁹³ The abstractions that inevitably arise in the *a priori* construction of a social model align with those emerging from investigations into the nature of good and evil. Such inquiries, necessarily undertaken by theorists dissatisfied with existing realities and dominant ideas, increasingly distance themselves from the reality articulated in ordinary language.³⁹⁴ Hale, for his part, gives preference to existing law, which has proven itself over centuries, and is in no way willing “to adventure the happiness and peace of a kingdom upon some New Theory of my own³⁹⁵.” No individual, therefore, may measure what is good or evil for the whole according to the criteria of their own reason. For the whole and the law upon which it rests are not the product of individuals but “the Production of long and iterated Experience which, tho’ it be commonly called the Mistress of Fools, yet certainly it is the wisest Expedient among mankind³⁹⁶.” Collective experience not only surpasses the creative capacities of individual reason but also its ability to comprehend it. Fortunately, it is unnecessary for individuals to fully grasp the deeper foundation or the hidden reason of institutions (*the reasons of the Institutions*); it suffices that they feel secure under their aegis. In any case, “it is foolish and unreasonable for any to find fault with an Institution because he thinks he could have made a better or expect a Mathematical Demonstration to evince the reasonableness of an Institution³⁹⁷.” Even an admittedly imperfect law “is preferable before that Arbitrary and uncertain rule which Men miscall ye Law of Reason”³⁹⁸—after all, human affairs can never attain perfection.³⁹⁹

These views of Hale were not the isolated product of a single brilliant conservative mind; although not often expressed so felicitously, they were widespread enough to easily find their way into official statements by corporate bodies. For example, the Paris Parlement condemned authors who criticized feudal rights, arguing that they sought to convince people that old institutions and customs were not only unjust and barbaric but also meaningless—this despite the fact that they could offer nothing more than “des rêves quelquefois séduisants dans la théorie” as replacements. These dreams, however, could not be realized, as all calculations in this area were inherently flawed, especially when the theory failed to take into account “la constitution particulière, le génie et les mœurs d’une nation⁴⁰⁰.” Underlying this critique is the conviction that human *communitas* does not

³⁹³ 302. Reflections, 502.

³⁹⁴ 303. Ibidem, 503.

³⁹⁵ 304. Ibidem, 504.

³⁹⁶ 305. Ibidem, 505.

³⁹⁷ 306. Ibidem

³⁹⁸ 307. Ibidem, 503.

³⁹⁹ 308. Ibidem, 504.

⁴⁰⁰ 309. Remonstrance of March 30–April 18, 1776 = Flammermont, III, 362f.

arise or develop based on a priori rational plans but rather from natural needs and affections; the social nature of humans drives them to submit to "conventions" and thereby receive protection in return⁴⁰¹. Just as scholastic theory, so too secularized conservative theory does not deem consensus superfluous. Yet it draws a distinction—important for thinkers like Burke—between explicit and tacit consent, which was meant to silence any revolutionary questioning of the foundations of the existing order rooted in individual reason. Tacit consent, it is argued, arises simply from being born into a *communitas* whose historical continuity itself attests to the willingness of all past generations to live within it. The durability of the collective body, its ability to outlast all individual and subjective elements, thus becomes the ultimate *social-political* argument. In this durability, individuals and generations are so intertwined that no partial will can refuse its assent to the whole: "corporations are immortal; we were then alive in our predecessors, and they in their successors do live still⁴⁰²." This awareness of the collective body's durability as the ultimate social-political rationale is echoed in the frequent admonitions to learn from the wisdom of ancestors and follow their example⁴⁰³, as well as in the estates' oft-expressed concern for their "posterity" or "descendants"⁴⁰⁴. The same awareness underlies the stereotypical defense of privileges, which are repeatedly claimed to exist "from time immemorial" or be "ancient"⁴⁰⁵, etc.

The compact mass of time, so to speak, which constituted the duration of the collective body, was meant, according to conservative thought, to stifle any claim or impulse of autonomous, rebellious reason in its infancy. While the absolutists distinguished eternal law from temporal law, emphasizing that "time brings change to all things on earth⁴⁰⁶," conservatives merged time and eternity, asserting that time could produce nothing that had not existed from the beginning. Against the backdrop of this understanding of time, it could be argued in 1577, contrary to the modern sense of "Reformation," that Reformation was essentially :que levant les choses en leur première et ancienne forme⁴⁰⁷." The uniformity of time, which acts as timelessness, corresponds to the structural invariability of the collective body despite the transience of its individual parts. For the anti-absolutist conservatives, there was no doubt that "all innovation... is very

⁴⁰¹ 310. Remonstrance of May 11/13, 1788 = Flammermont, III, 715.

⁴⁰² 311. Typical statements in Hotman, *Francogallia*, Praef. and XI [XIV] = pp. 142, 332. See also XIII: *Pietatis pars est, maiorum sapientia delectari*.

⁴⁰³ 312. See, for example, *Urkunden und Actenstücke*, X, 522; XV, 394, 569, 700.

⁴⁰⁴ 313. See, for example, *ibid.*, V, 874; XV, 700.

⁴⁰⁵ 314. The *Cuaderno* of the Cortes of 1506 speaks of "from time immemorial" = Griffiths (ed.), *Repr. Gov.*, 15.

⁴⁰⁶ 315. So Oldendorp already in 1530, see Maier, *Polizei*, 131 f.

⁴⁰⁷ 316. So Pierre d'Épinac, representative of the clergy at the Estates General of Blois, quoted in Church, *Constitutional Thought*, 120, note 104.

dangerous—inparticular in *materia privilegiorum et pactorum*⁴⁰⁸.” They asserted that one should not lightly undertake any innovation or introduce anything that was not already established in a country or state and that, as examples from history demonstrated, “such changes have given rise to great disturbances, unrest, and destruction⁴⁰⁹.” They believed that only “well-founded antiquity... provides the power of permanence,” whereas reform plans and constitutional concepts originating from the minds of rulers would never possess “*energiam et vim antiquarum legum*”⁴¹⁰. All of this is repeated at every opportunity because the intention of autonomous or absolutist reason now appears to be clear: to introduce a constitution entirely anew into the *respublica, tanquam in rasam tabulam, cui nihil antea inscriptum sit*⁴¹¹ (“as if onto a blank slate on which nothing had previously been written”). The metaphor of the *tabula rasa* aptly illustrates the radicalism attributed to the claims of autonomous reason, embodied in the form of the modern sovereign. From the conservative perspective, this reason—associated with voluntarism and activism, just as collective reason was tied to the inviolability of a seemingly timeless collective body—sought, as it appeared, to undo history, that is, to level all historically given social distinctions, for only in this way could it rule over everything and be equally sovereign everywhere. In response, it was argued that because the *communitas* was not a *tabula rasa*, i.e., neither devoid of history nor undifferentiated, but rather because every part of it possessed its own individuality, the will of autonomous reason could not rule over it uniformly and levelingly: “... le Roi ne règne pas sur toutes les provinces au même titre,” as each province has its own *coutumes*. “la volonté du Roi, pour être juste, doit donc varier suivant les provinces”; if, on the contrary, the sovereign abolishes the different *coutumes* and privileges—“il est certain qu’alors la volonté du Roi pourrait être uniforme”⁴¹².

This offensive provincial particularism, which reemerged on the eve of the French Revolution,⁴¹³ was, in fact, a very old phenomenon inherently linked to the conservative rejection of the claims of autonomous absolutist reason from the very beginning. Its principle was firmly established by 1506, when a *Cuaderno* of the

⁴⁰⁸ 317. United considerations of the Prussian Estates from March 27, 1662 = *Urkunden und Actenstücke*, XVI, 41.

⁴⁰⁹ 318. Reply of the deputies of the Prussian Estates to the Elector on April 21, 1651 = *Urkunden und Actenstücke*, X, 208.

⁴¹⁰ 319. Ibid. (note 317), 21.

⁴¹¹ 320. This accusation is refuted by the commissioners of the Swedish Crown, pressured by the Pomeranian Estates, see Back, *Herzog*, 102 f.

⁴¹² 321. As stated by the Parisian Parliament in the remonstrance of April 11–13, 1788 = Flammermont, III, 743.

⁴¹³ 322. On this, see Hintze, *Staatseinheit*, 156 ff. Regarding contemporary cultivation of local tradition in Hungary as a reaction to Josephinian absolutism, see Mitrofanov, *Joseph II*, 316 ff.

Spanish Cortes stated: "*cada provincia abunda en su seso*" ("each province is abundant in its own reason [= it constitutes an independent whole]"), "*y por esto las leys e hordenancas quieren ser conformes a las provincias, y no pueden ser yguales ni disponer de una forma para todas las tierras*"⁴¹⁴ ("and for this reason, the laws and ordinances must conform to the provinces, and cannot be uniform nor prescribe a single form for all lands"). This had to be repeated often and elaborated in greater detail, particularly as the absolutists claimed that the customs and laws of the provinces held force only by virtue of an original royal decree or at least by subsequent royal approval.⁴¹⁵ From this premise, they concluded that the sovereign had the right to abolish or alter such customs or laws. Coquille, who placed the struggle against this specific aspect of absolutism at the center of his remarkable work and thus became a worthy precursor to J. Mésers, denounced "*ces grands zelateurs des droits Royaux*" ("these great zealots of royal rights") who sought to replace traditional customs and provinces with a new administrative order. He argued that the *coutumes* were "*droit commun et originaire et non survenu ou adventice*" ("common and original law, not new or adventitious"), a collective work of all three estates and the result of long-standing practice, which began well before any written codification of law. No public authority had devised or imposed them; the king merely endorsed them, thereby giving them only "*la vie extérieure*"⁴¹⁶ ("external life"). Coquille's astonishingly rich catalog of all possible customs across all imaginable areas of social life reflects a genuine sense for the boundless diversity of reality, which he did not perceive as unpredictability or anarchy and which in no way troubled him. He willingly recorded this diversity and regarded its existence as an undeniable fact. While he acknowledged and noted the changes that had occurred over time in the various customs, these changes, for him, did not suggest the alterability of the social whole at will but rather confirmed its innate adaptability, making voluntarist interventions unnecessary. He examined which custom constituted the rule and which the exception, but without calling for the elimination of exceptions in favor of rules or measuring existing customs against the universal standard of One Reason to compare them. However, he sometimes praised the practical utility of one custom or another and sought to highlight their internal logic through statements such as "*ces coutumes sont fondées en grande raison*" ("these customs are founded on great reason") or "*en très-juste raison*" ("on very just reason"). We know, of course, what kind of reason he is referring to.

⁴¹⁴ 323. Griffiths (ed.), *Representative Government*, 14.

⁴¹⁵ 324. References in Albertini, *Denken*, 45; Church, *Constitutional Thought*, 104 f., 107 f., 116 f., 198 f.

⁴¹⁶ 325. *Coutumes de Nivernais*, OC, II, 1, 1B–2A, 2B, 3B, 6B; *Questions etc.*, 1 = OC, II, 2, 125, 126; *Institution au droit des François*, OC, II, 2, 1; *Discours des Etats...*, OC, I, 286A. Even Pitter, who acknowledges legislation as "the most general principle of government law," argues that "private rights are not so much determined by formal laws of the highest authority as they are left to the custom and autonomy of each locality or lineage..." (*Begriff*, §§ 138, 140).

Custom thus appears as the crystallization of collective reason or as the manifestation of a particular national spirit, bound to a specific “province” and specific people.⁴¹⁷ These elements merge together to form something unique and singular. This distinctiveness, however, does not contradict the universal validity of divine laws or the legal principles of the *societas civilis*;⁴¹⁸ rather, it demonstrates that modern sovereignty has not yet fully asserted itself or that the aforementioned legal principles still govern life. If the legal principles of the *societas civilis* are necessarily tied to the specific and unique unity of custom or law, land, and people—a unity often referred to as the “nature of the people”—then modern sovereignty, by violating these principles, must inevitably distort the very nature of the given people. As Tschernembl⁴¹⁹ put it: “He who seeks to change the customs and mores of a people seeks to change their nature itself.” Rephrased in the words of Smith, this means that the “fashion of government” and the “nature of the people” must fit together “like a garment to the body or a shoe to the foot.”⁴²⁰ Similarly, the English conservative jurists discussed earlier in this section argued that the common law “is appropriated to this kingdom of England as most apt and fit for the government thereof” and is not comparable to the laws of other nations⁴²¹: “It is singularly accommodated to the frame of the English government, and to the disposition of the English nation; and such as by a long experience and use is, as it were, incorporated into their very temperament”⁴²².

This view of law as being concretely localized and exclusively tied to a specific people naturally left conservatives unsympathetic toward Roman law, which could support absolutism directly (through the *legibus solutus* doctrine) and indirectly (through the primacy of *lex* over *consuetudo*), and in fact increasingly did so. As long as the foundations of the *societas civilis* remained unshaken despite surface-level unrest, the dangerous aspects of Roman law could be neutralized through various reinterpretations.⁴²³ However, when the theoretical possibility of

⁴¹⁷ 326. Some striking formulations by Coquille illustrate how consciously these connections were understood even then: “*Coutume, Province et peuple correspondent l’un à l’autre*” (“Custom, province, and people correspond to one another”) (*Hist. de Nivernois*, OC, I, 437B); “*la vraie marque de Province est la Coutume distincte et séparée*” (“the true mark of a province is its distinct and separate custom”) (*Discours des États...*, OC, I, 286B); and laws, just like morals, must be made “*selon le goût et le sens de chacun peuple*” (“according to the taste and sense of each people”) (*Questions*, I = OC, II, 2, 125).

⁴¹⁸ 327. The matter-of-factness with which Saint-Simon mentions “*lois humaines, locales, politiques, divines*” (“human, local, political, divine laws”) in one breath is revealing (*Lettre anonyme, Mémoires*, III, 12736).

⁴¹⁹ 328. Cited in Sturmberger, *Tschernembl*, 103 note 63.

⁴²⁰ 329. *De rep. Angl.*, I, 15 = S. 17.

⁴²¹ 330. Similarly, Coke, *II Inst.*, Merton cap. 9 = S. 98; see also *III Inst.*, cap. 36 = S. 100.

⁴²² 331. Hale, *History*, 47; see also 83.

⁴²³ 332. On these reinterpretations, see Carlyle-Carlyle, *History*, II, 75 and V, 465ff.;

absolutist use of Roman law became a practical approach, reinterpretations were no longer a reliable solution, and a counterattack became necessary. Coquille denied that Roman law had the “force of law” and argued that true civil law consisted of *coutumes*, which were clear and substantial, while Roman law represented an abstract and ambiguous construction of legal scholars⁴²⁴. Hotman’s famous contrast between Roman law and *consuetudo* emphasized the latter’s infinite adaptability and plasticity, enabling it to remain ancient yet perpetually fresh, “*tam antiqua et tam nova*”⁴²⁵. The specific conservative intention and argumentative foundation of this (renewed after 1789) polemic against Roman law are not undermined by the fact that, in 16th-century France, prominent absolutist legal theorists also distanced themselves from Roman law. However, they did so not to defend traditional law but to support monarchist, proto-nationalist Gallicanism, which was directly opposed to papal influence—and therefore also to the *ius canonicum* derived from Roman law.⁴²⁶ Their anti-conservative stance was evident in their simultaneous call for codification, standardization, and simplification—essentially a defederalization of domestic law—which could only serve absolutist centralism.⁴²⁷ Thus, the French absolutists, due to their polemically motivated (and not unanimous)⁴²⁸ restraint toward Roman law, did not become conservatives, just as conservatives did not become absolutists when advocating for codification of existing laws. The intentions of both sides remained fundamentally different: while the absolutists sought to strengthen central governmental authority, the estate-based conservatives supporting codification, who nevertheless upheld the principle of tradition’s superiority over written law, aimed to secure existing privileges by recording them and protecting them against future attacks.⁴²⁹ This phenomenon was also frequently observed in the German-speaking world.⁴³⁰

The conservatives’ appeal to tradition and custom as the “best teacher”⁴³¹ was

Gilmore, *Argument*, 131; Lewis, *Med. Pol. Ideas*, I, 5; Congar, *Quod omnes*, 180f.

⁴²⁴ 333. *Institution*, OC, II, 2, 10; *Questions*, II = OC, II, 2, 127f.

⁴²⁵ 334. Pocock, *Ancient Const.*, 15; Caprariis, *Propaganda*, 231.

⁴²⁶ 335. Kelley, *Foundations*, particularly 171ff. (on Du Moulin), 198, 286; Mortari, *Diritto*, 95ff.

⁴²⁷ 336. Regarding Du Moulin’s demand for the rationalization of law and his critique of feudalism, see Caprariis, *Propaganda*, 211 ff., 241 ff.; Church, *Constitutional Thought*, 180.

⁴²⁸ 337. On the *étatistes’* Roman cult under Richelieu and Maran’s polemic against Hotman, see Thuau, *Raison d’État*, 408.

⁴²⁹ 338. Mortari, *Diritto*, 168 ff.

⁴³⁰ 339. See Haß, *Kurmärkische Stände*, 101, 108; Sturmberger, *Tschernembl*, 248 ff.; Back, *Herzog*, 165 ff.; complaints of the Jülich knighthood dated 16.11.1541 in *Landtagsakten von Jülich-Berg 1400–1610*, 362.

⁴³¹ 340. Moser, *Von den Teutschen Landen*, 1163.

not necessarily tied to an appeal to history as a succession of specific events. Instead, it functioned as a reveling in a timelessness, a glorification of the immutability of the *societas*, which was marked by eternal divine law. However, ideological confrontations forced conservatives to view tradition historically—that is, to establish milestones in the past that could be used to date, trace, and represent current phenomena in a polemically effective way. The debate over the relative merits of Roman law versus customary law sharpened historical awareness by raising the question of to what extent a law, created under entirely different and long-extinct conditions, could remain valid. Nevertheless, the metaphysical and theological components of early conservative thought were too strong to allow for a deeper engagement with the problems of historical relativism—a concern that would only clearly emerge under the intellectual conditions created by the Enlightenment.⁴³² In the 16th century, the desire of all parties to find arguments in the past for their own cause—or to represent the past in a way that justified their position—served as the main impetus for historical studies. Thus, it was not the case that conservatives were friends of historical inquiry while absolutists were its enemies. Everyone navigated history as they saw fit, extracting from it what aligned with their purposes. Absolutists sought in the past the original act of sovereignty from which all existing laws and privileges could be derived, while conservatives preferred to locate the beginning of politically relevant history in an unrecorded primeval age during which customary law had taken shape. Yet, it often seemed more practical to abandon this nebulous idea in favor of a more concrete one to counteract the absolutist invocation of an original act of sovereignty. They postulated an original people's assembly that had permanently established the rights, duties, and limits of governmental power.⁴³³ This foundational assembly of the “people” appeared as a singular and concrete historical event, but at the same time—thanks to its continuous full or partial reenactments at the *Champs de Mars* or *du Mai* and in the miniature form of council surrounding the prince—it was a permanent state that constituted the “natural state” of the *societas civilis*. In this sense, Hotman viewed the *restitutio* of the *societas* into its “*suum antiquum et tamquam naturalem statum*” as the only fundamental solution to its problems.⁴³⁴ Thus, the early emergence of a conservative utopia can be observed, which, in its anti-absolutist coloration, remained vibrant until the late 18th century⁴³⁵ and later often took the form of an idealization of the Middle Ages

⁴³² 341. Kondylis, *Aufklärung*, 421 ff.

⁴³³ 342. Pocock, *Ancient Constitution*, 16.

⁴³⁴ 343. Hotman, *Francogallia*, Preface, p. 142. In the fifth chapter of his work, Hotman presents his view of the emergence of this “state of nature” in 5th-century Gaul, which Beza also adopts in *De iure*, VI = p. 60 ff. For precursors to Hotman in this regard, see Caprariis, *Propaganda*, especially p. 432.

⁴³⁵ 344. See, for instance, “Der gesammten österreichischen Stände offenes Manifest ... über Kaiser Ferdinands II widerrechtlichen und gewalthätigen Regierungsantritt,” emphasizing

for counter-revolutionary purposes. While not everyone agreed with Boulainvilliers' view that the golden age had reached its peak under Charlemagne,⁴³⁶ most French conservatives agreed that the reign of Louis XI marked a painful turning point in the dissolution of the natural state.⁴³⁷ Generally, after every setback, there was a stronger inclination to glorify the past wholesale and to dream of the "secure peace," the "unbroken freedom," and the prevailing happiness of bygone times.⁴³⁸ Regardless of where the line was drawn, the course of history seemed to be divided into two parts: a long era of happiness followed by a time of misfortune. Furthermore, the dividing line signified a fall from the natural state or divine law. Whether restoration was possible remained initially unaddressed and uncertain. The misfortune had not yet become so intolerable as to inspire historical-philosophical speculations and constructions, which would only emerge after 1789.⁴³⁹

The history of the idea of ancient Germanic liberty is largely well-known⁴⁴⁰ and does not require detailed discussion here. What must be noted, however, is its previously underemphasized connection to the legal conception of the *societas civilis* and the thesis of the primacy of a naturally evolving *societas* over voluntaristic governmental authority. It should also be remembered that this idea, in its flexibility, could support not only the leadership claims of certain factions within the conservative⁴⁴¹ camp against similar claims by other conservatives but even radical democratic demands⁴⁴². Both this latter case and other instances demonstrate that appeals to history were double-edged,⁴⁴³ and consequently, the

that in the blessed primeval times, "Proceres ... Imperium absolutum minimum ferebant," and that princely dignity relied exclusively on "amor, fides, studia Provincialium" (*Historische Actenstücke*, I, 91).

⁴³⁶ 345. See *Histoire*, I, 211 ff.

⁴³⁷ 346. For example, Coquille, *Discours des États* = OC, I, 280A. Moser places the end of original freedom in Germany at a much later time (see *Von den Deutschen Landen*, 1146).

⁴³⁸ 347. For example, the opinion of the Prussian estates dated 11.10.1657 = *Urkunden und Actenstücke*, XV, 398.

⁴³⁹ 348. Referenced in Chapter II, Section 6c.

⁴⁴⁰ 349. Refer to the works by Hézle, Pocock, and Kliger mentioned in the bibliography.

⁴⁴¹ 350. The interpretation of the idea of ancient Germanic liberty by the Paris Parliament aimed not only to counter absolutism but also to undermine the *noblesse d'épée*; see Carcassone, *Montesquieu*, 25f., 272f.; Rogister, *Crisis*, 110f. Compare the *Remontrance* from November 27, 1755 = *Flammermont*, II, 26ff.

⁴⁴² 351. This occurred during the English Revolution when the Levellers merged the anti-absolutist idea of ancient Germanic liberty with the notion of a paradisiacal original state; see Hézle, *Idee*, 63f.; Pocock, *Ancient Constitution*, 125ff.; Kliger, *Goths*, 253ff.

⁴⁴³ 352. For example, in the study of the historical origins of feudalism and parliament, which also provided argumentative tools to the absolutist faction; see Pocock, *Ancient Constitution*, 70ff., 103, 122, 182f.; compare Kliger, *Goths*, 134.

past could not simply be declared the exclusive domain of conservatism. Nevertheless, the relationship of conservatives to the past had to remain closer than that of the absolutists, not only due to the conservative preference for customary law but also for an intrinsic reason. There was no doubt that, in the pre-absolutist past, the independence and power of the nobility were greater than in the present. This realization fueled nostalgia for the past and encouraged its idealization. In contrast, the absolutists' appeal to history remained relatively restrained, often resembling a polemical-ideological formality, as their primary aim was merely to prove that the ruler had always possessed his current power from the very beginning. For them, the past was therefore not more beautiful than the present but at best equal to it or a confirmation of it. However, the relationship between present and past was fundamentally different from the perspective of an already beleaguered nobility, which explains why the remarkable intensification of noble social consciousness at the turn of the 16th century often manifested as a desire to return to the Middle Ages, where the figure of the knight as warrior, judge, and man of honor had predominated.⁴⁴⁴ In the first half of the 18th century, numerous works appeared in France glorifying the Middle Ages in precisely this sense.⁴⁴⁵ Above all, the historical works of Boulainvilliers testify to the strong interest of this historiography in social and institutional questions:⁴⁴⁶ only through analyzing the developments that had undermined the social and political status of the nobility could the cause of the nobility be advanced. The absolutists were compelled to respond to conservative historiography—primarily through Du Bos—but did not take the initiative in this field. The prominent example of Hobbes, along with the generally low regard for history among the *étatistes*⁴⁴⁷, illustrates this. The (relative) absolutist indifference to history would, over the course of the 18th century, transform into the liberal-democratic natural-law hostility toward the historical principle, as demonstrated in the French pamphlet wars of 1788–1789.⁴⁴⁸ At this point, conservatives were able to claim history and historical engagement entirely for themselves, although soon prominent figures in liberal historiography began to write the history of the Middle Ages from the perspective of the parliamentary movement.

e. The Group, the Individual, and the World Order

Since the 16th century, the nobility found itself compelled to reaffirm the

⁴⁴⁴ 353. Mandrou, *Classes*, 426.

⁴⁴⁵ 354. Lombard, *Du Bos*, 580–648. For other channels spreading conservative thought during this period, see Ford, *Sword*, 234ff.

⁴⁴⁶ 355. Refer to *Histoire*, the final pages of the preface and Volume I, particularly 191ff.

⁴⁴⁷ 356. See the statements by Silhon and Rohan quoted by Thuau (*Raison*, 384).

⁴⁴⁸ 357. Gébring, *Weg*, 244, 248, 250; Egret, *Pré-Révolution*, 332, 346.

ideological principles that legitimized its traditional rule within the *societas civilis* with renewed emphasis or to reformulate them in light of contemporary polemical needs. Central among these principles were: the priority of the group over the individual, who was born into it and belonged to it for life, thereby securing the hereditary rule of the *oikos* leaders and excluding the possibility of individuals being directly subject to the state; the rejection of the equality of all people—implied in the demand for sovereign governmental authority to have direct control over all individuals—and the defense of hierarchy, both between and within estates; the legal underpinning of this hierarchy through the theory of *justitia distributiva* and its associated interpretation of the nature of privileges; and the reinforcement of all this through a particular view of world order as a whole.

The nobility's crisis in the 16th century provided an urgent reason for this emphasis or reformulation. They felt threatened by the deterioration of their economic position (due in part to the reorientation of the global economy), the rise of absolutism, and an unprecedented social mobility.⁴⁴⁹ Caught between an assertive monarchy and an ambitious bourgeoisie, the nobility had to consolidate itself as much as possible, bolstering its ideological position through the romanticization of chivalric ideals, the rediscovery of medieval heroic sagas, or the cultivation of long ancestral lineages.⁴⁵⁰ At the same time, they went on the offensive, seeking to elevate their social role in opposition to both the monarchy and the bourgeoisie while devaluing these rivals.⁴⁵¹ This need for self-affirmation was expressed, for example, by Count zu Solms, who derived the word "nobility" (*Adel*) from "eagle" (*Adler*⁴⁵²), or by the nobility of Beauvais, who, in their 1614 *Cahier*, described the nobility as "la quinte essence du genre humain"⁴⁵³. The struggle to preserve the threatened status of the nobility took place on three fronts simultaneously. Against the efforts of absolutist monarchs to assert superiority over the nobility, the latter reminded them of the original social and political equality between princes and nobles,⁴⁵⁴ claiming that the council of nobles surrounding the king (and effectively controlling him) was in fact a "multitude des Rois"⁴⁵⁵. Secondly, the high nobility, alarmed by increasing social mobility—particularly the opening of its ranks to upstarts and the lower

⁴⁴⁹ 358. On these phenomena in France, see Salmon, *Crisis*, 40ff, 928, 211 ff; cf. Mandrou, *Classes*, 29.

⁴⁵⁰ 359. Réßler, *Adelsethik*, 240 ff.

⁴⁵¹ 360. Marcks, *Coligny*, 217.

⁴⁵² 361. Uhlhorn, *Graf zu Solms*, 153, 155.

⁴⁵³ 362. Cited in Hayden, *France and the Est. Gen.*, 203.

⁴⁵⁴ 363. See, e.g., Sturmberger, *Tschernembl*, 346.

⁴⁵⁵ 364. So Brutus, *Vindiciae*, III = p. 205. The sociopolitical function of this council in connection with the nobility's struggle against modern statehood is discussed in the next section.

nobility—felt the need to defend the status of the nobility as a whole by distinguishing itself. These attempts at differentiation took various forms⁴⁵⁶, as they had to account for the respective circumstances and specific interests, which is why they were not always supported with the same emphasis by all members of the high nobility.⁴⁵⁷ However, their general purpose was clear: by strictly maintaining the hierarchical principle even within the nobility, its universality was fundamentally ensured. Understandably, this principle was upheld with particular fervor on the third front, where the struggle for the socio-political status of the nobility took place—namely, against the “plebeians”⁴⁵⁸ of the Third Estate and their absolutist allies, who sometimes did not shy away from claiming that “reason” and “state” outweighed *droit de nature* or *proximité du sang*⁴⁵⁹. This confrontation was no accident. Secularized and autonomous reason, along with the state, represented forces that promised equality, whereas blood and natural rights (as understood within the *societas civilis*) guaranteed the inviolability of hierarchy. The Third Estate often deliberately appealed to the state and the nation as a great family, with the prince as the father and the three estates as equal brothers—a view against which the nobility had to invoke the innate inequality present from birth.⁴⁶⁰ This natural inequality was made visible not only through the creation and maintenance of highly symbolic etiquette⁴⁶¹ but also through new theoretical constructions. Thus, the theory of the racial distinctiveness and superiority of the nobility emerged in the 17th century to ideologically support the French nobility in its struggle against absolutism and the Third Estate.⁴⁶² The stereotypical argument against equality from the 16th to the 18th century was that the dissolution of hereditary hierarchy would inevitably lead to confusion, anarchy, and ultimately injustice.⁴⁶³ Moreover, the pursuit of equality appeared as a violation of divine order: “vouloir renverser la supériorité des rangs, réduire les hommes à une égalité imaginaire, ... c’est blasphémer contre la Providence,” wrote Fénelon.⁴⁶⁴

Now, there is a close connection between the defense of hierarchy and the conviction of the group’s priority over the individual. The individual cannot and

⁴⁵⁶ 365. Lieberich, *Landherren*, 16ff., 156, 158f.; Labatut, *Dues*, 333 ff.

⁴⁵⁷ 366. On the differing views of Le Laboureur and Saint-Simon, on one side, and Boulainvilliers, on the other, regarding this question, see Carcassone, *Montesquieu*, 11–25.

⁴⁵⁸ 367. On the pejorative use of the word in the 17th century, see Breysig, *Entwicklung*, 80.

⁴⁵⁹ 368. Cited in Thuau, *Raison*, 234.

⁴⁶⁰ 369. For example, in the *Etats Généraux* of 1614, see Picot, *Histoire*, III, 347 f..

⁴⁶¹ 370. Such questions also appear in the *Cahiers* of the nobility, see, e.g., Brown, *Prov. Opinions*, 158 f.

⁴⁶² 371. Barzun, *French Race*, 96f.; cf. 100f., 122 (Loyseau and Adrien de Valois as precursors of Boulainvilliers).

⁴⁶³ 372. See, e.g., Mariana, *De rege*, III, 11 = p. 369; Mirabeau, *Ami*, 254.

⁴⁶⁴ 373. *Essai phil. sur le gouv. civil*, VI = VII, 112.

must not disrupt the hierarchy because, from birth, they belong to a group that occupies a specific immutable position within the *societas*. If the individual is conceived as such—that is, stripped of any original ties to a group—the *societas* dissolves into a collection of equal individuals, and thus the hierarchy (at least in its traditional sense) also collapses. Therefore, the individual's affiliation with a group is indispensable for maintaining the hierarchy. This notion has further socio-theoretical and anthropological implications, which also played a crucial role in the controversies after 1789. The individual's membership in a group is of constitutive importance; humanity cannot be conceived otherwise than as a member of a group. Otherwise, as some defenders of the nobility's cause had already emphasized in the mid-17th century, they remain merely “une abstraction de Métaphysique⁴⁶⁵.” Thus, only the individual who lives within a group, occupying a specific position within the social hierarchy and marked by corresponding characteristics, is concrete. Anything assumed beyond these characteristics is an abstraction, and therefore, traits that an individual may possess or develop as such must not serve as the standard for structuring social organization. Against this backdrop, the old debate—which flared up again since the 16th century as a result of the aforementioned socio-political shifts—about whether birth or virtue should be more highly valued must be understood.⁴⁶⁶ However, behind the plea for virtue lay an egalitarian intent, since virtue could apparently also be achieved by individuals of modest origin. Conservative defenders of the primacy of birth did not deny this fact, but even those among them who were willing to concede that people are, in principle, born equal with respect to “reason” and “humanity” added that noble birth offered a much more favorable starting point for the attainment of virtue. Thus, even on the basis of the virtue criterion, preference ultimately belonged to the nobility.⁴⁶⁷ In the end, virtue—or at least the better predisposition for it—appeared as a collective property of a particular group, rather than something that could be achieved by every individual solely through their own efforts and independently of their social status. It was not moral concern but rather the antagonism between conservative hierarchical collectivism and absolutist or bourgeois egalitarian individualism that was decisive in this dispute.

The conservative notion of the individual's original constitutive attachment to a specific group, and thereby to a specific hierarchical level, was socially rooted in the reality of the *oikos*, which, as repeatedly emphasized in connection with Aristotle, constituted the fundamental unit of the *societas*.⁴⁶⁸ The individual's

⁴⁶⁵ 374. So Daniel de Priézac, cited in Sutcliffe, *Balzac*, 147.

⁴⁶⁶ 375. See Bitton, *Nobility*, Chapter V.

⁴⁶⁷ 376. For example, Boulainvilliers, *Essais*, 7 f. Compare the passage mentioned in footnote 374.

⁴⁶⁸ 377. For instance, Smith, *De rep. Angl.*, I, 11; Hooker, *Eccl. Pol.*, I, 10, 4 = I, 242

affiliation with an *oikos*—a primary and elementary fact of life for the vast majority—implied two things: that social mobility was restricted within narrow limits and that the individual was not directly subject to state authority but rather to the leader of their own *oikos*. Just as in the modern state, the existence of institutions enabling impersonal, universally regulated, and stable relationships coincides with the individual's direct subjection to state authority, so in the *societas civilis* the absence of such direct subjection entailed the dominance of personal over impersonal or institutionalized relationships at various levels of social life. A personal relationship, characterized by the obligation of mutual loyalty, was evident both in the bond between the nobility and peasants⁴⁶⁹ and between the nobility and the king⁴⁷⁰. By declaring this type of relationship to be the best arrangement for coexistence within the *societas civilis*, the nobility opposed the absolutist idea⁴⁷¹ of the individual's direct subjection to the state, according to which the prince would treat the individual not as a noble or a peasant (i.e., based on their belonging to a specific group) but merely as a human being or subject without further attributes.

From this rejection of the individual's direct subjection to the state—connected to the defense of the primacy of the group and birth, as well as the rejection of individualism and the “abstract” concept of humanity—the famous theory of *pouvoirs intermédiaires* ultimately emerged. The underlying ideas of this theory are exemplified, for instance, in a complaint by the Bohemian Estates to Joseph II, where the crucial statement reads: “One cannot even form an abstract idea of a state consisting only of the monarch and a single class of subjects... There must necessarily be intermediary orders, each of which governs a portion of the people.⁴⁷²” The monarch must not, therefore, infringe upon the rule of *oikos* leaders over their own people. If the governing authority questions this rule, stripping individuals from their groups and subjecting them directly to its own laws, equality before the state emerges, which, from the nobility's perspective, equates to despotism and tyranny. Thus, Fénelon wrote: “Les plus grands partisans de cette égalité imaginaire ont été toujours les maîtres les plus despotiques.”⁴⁷³ The purpose of *pouvoirs intermédiaires* is precisely to prevent individuals' detachment from the *oikos*, to block equality, and thereby to avert despotism. To the horizontal conception of the state, where all subjects of the sovereign stand on the same level, a vertical model is opposed, wherein subjects are divided from the outset into

⁴⁶⁹ 378. On this relationship, according to the view of an arch-conservative noble landowner of the 16th century—certainly not uncharacteristic even for the 19th century—see Sturmberger, *Tschernembl*, 606, 78.

⁴⁷⁰ 379. Cf. Mousnier, *Vénalité*, 531 ff.

⁴⁷¹ 380. Compare Louis XIV's instruction to his grandson, Koser, *Staat*, 234.

⁴⁷² 381. Cited in Mitrofanov, *Joseph II*, 628.

⁴⁷³ 382. *Essai phil. sur le gouv. civil*, IV = VII, 109.

various corporate bodies that descend “comme les anneaux d’une grande chaîne.”⁴⁷⁴ The hierarchy among these bodies is determined by the differences and varying importance of their functions and traces back to the origins of the commonwealth, being absolutely necessary for its existence.⁴⁷⁵

The diversity of functions, and thus the hierarchy of corporations, does not originate in the will of the governing authority but rather in the legal understanding of the *societas civilis*, which revolves around the principle of *justitia distributiva*, the *suum cuique*. It is worth quoting a statement from the Paris Parliament that illustrates the connection between this principle and the conservative leitmotifs discussed above: “La première règle de la justice est de conserver à chacun ce qui lui appartient, règle fondamentale du droit naturel, du droit des gens et du gouvernement civil, règle qui ne consiste seulement à maintenir les droits de propriété, mais encore à conserver ceux qui sont attachés à la personne et qui naissent des prérogatives de la naissance et de l’état. De cette règle de droit et d’équité il suit que tout système qui, sous une apparence d’humanité et de bienfaisance, tendrait . . . établir entre les hommes une égalité des devoirs et à détruire ces distinctions nécessaires amènerait bientôt le désordre, suite inévitable de l’égalité absolue”⁴⁷⁶ . . . This text, written in 1776, contains no new ideas but merely summarizes a long tradition of political thought. This tradition begins with the definition of *justitia distributiva* by Plato and Aristotle, reaches a medieval apex in the Thomistic reception of this principle in connection with the organic-hierarchical conception of the state,⁴⁷⁷ and continues in the stereotypical repetition of the *suum cuique* by conservatives since the 16th century.⁴⁷⁸ As we already know,⁴⁷⁹ the legal principle that “to each their own” did not mean that

⁴⁷⁴ 383. The Paris Parliament in its *Remonstrance* of March 12, 1776 (Flammermont, III, 445)

⁴⁷⁵ 384. also *Remonstrance* of March 2–4, 1776 (Flammermont, III, 287f.). Here, as had been customary for centuries, the functions of the nobility are listed as advising the king and defending the commonwealth in war. Precisely because the nobility emphasized this latter function, it had faced, since the emergence of standing armies in the 16th century, accusations that it no longer had a role to fulfill, rendering its leading position unjustifiable, etc. See Picot, *Histoire*, II, 48 (evidence from 1560); Bitton, *Nobility*, Chapters I–II. The mockery of martial virtues by bourgeois authors (Speier, *Militarism*, 326f.; Thuau, *Raison*, 154f.) was met by the (French) nobility with disdain for bourgeois values and the assertion: “The state is military in its foundation” (Mousnier, *Fureurs*, 27), which ultimately culminated in Boulainvilliers’ conquest theory (*Histoire*, I, 36ff.). The defense of the functions and thus the leading position of the nobility forms the backdrop for the sociophilosophical glorification of war, which conservatives undertook after 1789 in their specific struggle against the liberal-democratic (albeit polemically intended) pacifism.

⁴⁷⁶ 385. *Remonstrance* of March 2–4, 1776 (Flammermont, III, 278f.).

⁴⁷⁷ 386. *Summa Theologiae*, I-II, qu. 61, art. 2.

⁴⁷⁸ 387. Ribadaneyra, *Tratado*, II, 6 = p. 245; Coke, *II Inst.*, Magna Carta, cap. 29 = p. 36; Moreau, *Choix*, I, 390; Mirabeau, *Ami*, 205.

⁴⁷⁹ 388. See also Chapter III, Section 3a.

everyone was entitled to the same; rather, it was intended to clearly distinguish the rights of one social group from those of another, thereby grounding and consolidating the hierarchical structure of all existing rights. From a conservative perspective, there was thus no contradiction between the general applicability of law by definition and the identification of law with privilege. As Hooker explained, “privileges, immunities, exceptions, and dispensations” were merely expressions of a “special equity,” by which every individual case would be treated according to its specific characteristics. They did not represent a violation of general laws but aimed, “in very truth to practise general laws according to their right meaning.”⁴⁸⁰ When the legal understanding is summarized in the formula “*cujus est unicuique suum tribuere*” (to render to each their own), it is not about “freedom” and “justice” in the singular (as the later liberal-democratic singular implies that one and the same freedom and justice apply to all individuals, making them equal). Instead, it is about “freedoms” and “justices.”⁴⁸¹ Freedom, insofar as it is discussed at all, does not constitute an independent or even hypostatized entity but rather the sum of existing particularities, specifically certain privileges.⁴⁸² These privileges, whose preservation is equated without question with the preservation of the *bonum publicum*,⁴⁸³ are considered the inherent possession of the nobility—not suspicious acquisitions of recent origin or acts of grace from princes, as rulers understandably sought to demonstrate.⁴⁸⁴ They ultimately root in the same overarching order that manifests itself throughout the entire hierarchical structure of the *societas*.

The assumed divine origin of the law sustaining the *societas* already indicated that this order did not merely claim to be worldly but sought a higher, metaphysical legitimacy. Social inequality, the primacy of the group over the individual, and the hierarchical structuring of groups among themselves appeared as reflections of ontological fundamentals and simultaneously as norms and commands that directly followed from these fundamentals. No distinction was

⁴⁸⁰ 389. *Eccl. Pol.*, V, 9, 2–3 = II, 39.

⁴⁸¹ 390. Two examples among countless others: The Estates of the Duchy of Austria under the Enns, *Historical and Diplomatic Exposition on All Their Rights and Liberties* (1619) = *Historische Actenstücke*, Book 1, p. 18; Declaration of the Prussian Estates, December 14, 1661 = *Urkunden und Actenstücke*, XV, 700, 702, 703, etc.

⁴⁸² 391. “...immunities, upon which almost all the liberties of the provincials depend,” wrote Tschernembl, cited by Sturmberger, *Tschernembl*, 103 n. 64; where “traditional privileges of the estates... are annulled and taken by force,” “no shadow of liberty remains,” the Prussian knighthood argued in its March 1683 opinion = *Urkunden und Actenstücke*, X, 600.

⁴⁸³ 392. The Cleves Estates to the Elector, June 27, 1656 = *Urkunden und Actenstücke*, V, 852.

⁴⁸⁴ 393. See Seyssel, *Monarchie*, II, 19 = p. 157, as well as the interesting confrontation between the Estates of Jülich-Berg and the Count Palatine Wolfgang Wilhelm in 1625 = *Landtagsakten von Jülich-Berg 1624–1653*, 193ff.; cf. Boulainvilliers’ argument for the justification of the *droit de noblesse*, *Essais*, 10f.; see also Back, *Herzog*, 166, 186; Petersohn, *Fürstenmacht*, 112.

made between the normative and ontological significance of the law, as shown by, for example, Hooker's explanations. Despite the admitted effect of *causae secundae*, ultimately everything originates from God, in whom being and value, or norm, are one. God's law permeates and shapes not only the law of nature and of man but everything—even what initially appears to be “non-conformable to this eternal law.” Thus, it can be said of the Law: “Her seat is the bosom of God, her voice the harmony of the world: all things in heaven and earth do her homage⁴⁸⁵.” Since divine law is all-encompassing, there exists an inner analogy between cosmic and social order. The French *dévots* in the first half of the 17th century emphasized this to conclude that the *bêtes politiques* would “bring disorder into creation.” They believed they could discern parallels between the harmonious combination of the four elements in nature and the interaction of the various components of the community. For them, the exemplary nature of creation lay above all in its stepwise, hierarchical structure. From this structure of nature, they derived two socio-political imperatives: first, that good politics should proceed slowly and cautiously to avoid any rupture with what preceded it; second, that no leveling of the given hierarchical gradation should take place, as any other organization of the social and natural whole would be fundamentally impossible, leading inevitably to disorder and anarchy as the result of equality.⁴⁸⁶ Unsurprisingly, conservatives eagerly recorded inequality and hierarchy within the “*plan de l’Univers*.”⁴⁸⁷ However, the very features of the traditional image of the cosmos that conservatives cherished were shattered by the mechanization of the world-picture in the first half of the 17th century. In the world-machine, there were neither hierarchical gradations nor teleology—hence, the readiness with which absolutists embraced the new physics is not surprising; Hobbes is merely the most prominent example.⁴⁸⁸ Conservative hostility toward the world-machine thus becomes understandable when we recognize that the ideologues of the *societas civilis* projected onto the cosmos what they then derived from it, thereby giving it ontological grounding and legitimacy. This same constellation explains the widespread conservative rejection of Newtonian mechanics after 1789 and the attempts to develop a dynamic or even magical physics in its place—attempts that, not coincidentally, are associated with names such as Novalis, Schlegel, Schelling, Görres, and Baader.

f. Early Criticism of the Modern State and Capitalist Economy

⁴⁸⁵ 394. Eccl. Pol., I, 3, 1-4; I, 8, 4; I, 16, 8 = I, 204ff, 228, 285.

⁴⁸⁶ 395. For the views of the *dévots*, see Thuau, *Raison*, 144f. (with good references).

⁴⁸⁷ 396. See, for example, the *Remontrance* of the Paris Parliament from March 2-4, 1776 = Flammermont, II, 27.

⁴⁸⁸ 397. On the sympathies of the French *étatistes* for the mechanistic worldview, see Thuau, *Raison*, 386; cf. 269.

The extent of horror and disgust that the emerging modern state instilled in conservative defenders of the *societas civilis* is evident in their frequent accusation that this state differed little from an "oriental despotism" like that of the Ottoman Empire. They pointed to the abolition of birthrights, the preference for obscure upstarts, administrative tyranny, and the taxation of the nobility as key signs of this transformation.⁴⁸⁹ These were indeed fundamental aspects—or at least symptoms—of a new reality whose contours were becoming increasingly clear. We have already explained why the nobility itself, despite its significant role in the young state apparatus, could not be reassured about its long-term prospects.⁴⁹⁰ The expansion of the state bureaucracy and the resulting conflicts between the prince and the nobility created room for the rise of non-nobles, while at the same time, this expansion had financial, economic, and social consequences that worked against the aristocracy. The growing bureaucracy had to be funded through new taxes, which brought the question of noble tax exemption to the forefront. At the same time, it generated initiatives aimed at altering the existing social structure in line with the needs of the new state—often in favor of the bourgeoisie and emerging economic forms.⁴⁹¹ Seyssel had already noted that royal officials constantly sought to impose *novités sur les droits et prérogatives* of the nobility.⁴⁹² The conservative diagnosis, as formulated by Coquille, was as follows: the *multiplication monstrueuse des offices* led to an increase in taxes needed to pay bureaucrats, while the sale of offices introduced the additional evil that officeholders, having bought their positions, would exploit every possible means to recover their costs and make a profit.⁴⁹³ This was the same critique repeated until the end of the *ancien régime*, as evidenced in the *Cahiers* from the time of the Fronde⁴⁹⁴ and the analyses of Fénelon⁴⁹⁵ and Mirabeau.⁴⁹⁶ Complaints about the social consequences of bureaucratic expansion were similarly stereotypical. The ennoblement of royal officials meant

⁴⁸⁹ 398. See, for example, Buchanan, *De iure*, 70; Moreau, *Choix*, I, 288 ff.; Boulainvilliers, *Essais*, 299, as well as *Histoire*, Preface and I, 253. According to Malesherbes, too, the administration of the king's commissioners would lead to "true oriental despotism," see Egret, *Louis XV*, 209.

⁴⁹⁰ 399. See Section 3a of this chapter.

⁴⁹¹ 400. On the *Politiques'* projects for administrative centralization and economic liberalization, see Figgis, *Political Thought*, 145 ff.; on Obrecht's semi-utopian but highly indicative plans, see Maier, *Polizei*, 150 ff.

⁴⁹² 401. *Monarchie*, II, 19 = p. 157.

⁴⁹³ 402. *Discours...*, I, 280 A; *Dialogue...*, I, 233 A. Seckendorff called the sale of offices a "devious way to drain the subjects," *Christen-Staat*, II, 2 § 6 = p. 349. See also Ribadaneyra, *Tratado*, II, 10 = p. 2706.

⁴⁹⁴ 403. Brown, *Provincial Opinion*, 151 ff.

⁴⁹⁵ 404. *Examen...*, II § XIX = VII, 90.

⁴⁹⁶ 405. *Ami*, 254 ff.

that the composition of the ruling elite was no longer determined by tradition but by the will of the prince, marking the state's dominance over the *societas*. The cohesion and prestige of the old nobility were further weakened by the competition with these new upstarts, who forced them into financial ventures and even *mésalliances*⁴⁹⁷ (socially disadvantageous marriages). Early on, the defenders of the *societas civilis* saw the loosening of social hierarchy, the displacement of *seigneurs* by *vilains*, as an unmistakable sign of tyrannical rule.⁴⁹⁸ The bureaucratic career path was considered a way for "unworthy" individuals to gain wealth and prestige.⁴⁹⁹ A minimal demand to curb the damage was that a bureaucrat's or minister's income should never exceed that of *gens de la plus haute condition*.⁵⁰⁰ In its modesty, this demand speaks volumes.

With regard to the ideological aspect of anti-absolutist conservatism, an oft-repeated view since the 16th century is significant: that state officials were bearers of a new spirit and a hostility toward tradition. As early as 1514, the Württemberg estates lamented the changes that the princely *doctores* had introduced to the "old customs and traditions".⁵⁰¹ Such observations often took the form of accusations that royal advisors or officials, who did not originate from the native (high) nobility, were unfamiliar with the true conditions and sentiments of the province. Coquille, who shares this view, attributes the detachment of these *doctores* to their formalistic legal mindset, shaped by Roman law, which made them incapable of grasping and handling customary law—the empirically given—in its simplicity and vitality.⁵⁰² Furthermore, according to Coquille, the hostility of royal officials toward tradition stemmed from the fact that they were salaried and pursued their duties purely for personal material gain, whereas the native nobility had a deep bond with land and people and cared for their well-being.⁵⁰³ Boulainvilliers made the same argument about the *intendants*, claiming that they destroyed "les liens sacrez de la Société"—that is, the patriarchal relationship of loyalty between lord and servant—and taught people "à vivre attentifs à nos seuls intérêts, c'est-à-dire dans les dispositions où les Sauvages sont à l'égard les uns les autres."⁵⁰⁴ This hostility toward tradition displayed by "gens de plume et d'écritoire qui ont, à force de projets, d'ordonnances et de réglemens, changé la constitution subalterne de l'Etat", ultimately manifested in their view of

⁴⁹⁷ 406. See Boulainvilliers' typical—and accurate—description of the situation, *Essais*, 251; *Histoire*, I, 313.

⁴⁹⁸ 407. Brutus, *Vindiciae*, III = p. 200.

⁴⁹⁹ 408. Moreau, *Choix*, II, 422.

⁵⁰⁰ 409. See also Fénelon, *Examen...*, III § XVI = VII, 89.

⁵⁰¹ 410. Württemberg, *Landtagsakten*, I, 174.

⁵⁰² 411. *Discours...*, I, 276 B-277 A; *Coutumes de Nivernois*, II, 1, 3B-4B.

⁵⁰³ 412. *Histoire de Nivernois*, I, 343. Cf. Doolin, *Fronde*, 152ff.

⁵⁰⁴ 413. *Histoire*, *Préface* (without page numbers).

the feudal past, which they saw as nothing but disorder and anarchy.⁵⁰⁵ Keeping in mind later developments, two points are worth emphasizing here: first, the origins of conservative intellectual criticism in complaints against *doctores* and *gens de plume*; and second, the conviction that the two types of politics—absolutist and conservative—were embodied in two different human types: one characterized by abstract thought and the dominance of base instincts, the other by love of reality and tradition, guided in social conduct by patriarchal, responsible notions and sentiments.

Starting from such observations and judgments, the nobility fights against the influence of bureaucrats on the king, who allegedly separate him from his *populus*, withhold from him true knowledge of the situation and public opinion, etc.⁵⁰⁶ The intensity and detail with which the problem of royal “advisors” is addressed in the political treatises of the 16th century clearly reflect the growing importance of the monarch’s decisions due to the strengthening of absolutist power.⁵⁰⁷ The fact that the struggle over the significantly elevated will of the monarch was often fought as a struggle over his advisors provided a tactical advantage for the nobility: direct attacks against the king’s person could be avoided, mistakes could be blamed on scheming courtiers, and the possibility of an acceptable reconciliation remained open. Moreover, the king was not denied the right to have personal advisors, but a distinction was made between the *regis consiliaris* and the *regni consiliaris*: while the former lived at court and had primarily technical responsibilities, the latter belonged to the (high) nobility, represented the *populus*, and resided in the countryside, where he knew the conditions and sentiments from experience.⁵⁰⁸ Brutus, sharing this distinction with Hotman, speaks of *officiers du Roy* in contrast to *officiers du Royaume*, shifting the center of power to the latter and portraying the king merely as a *président au milieu d’eux*.⁵⁰⁹ This again echoes the well-known theme of the essential and interest-based unity of prince and nobility, which renders any separation or even competition between government authority and *societas* inconceivable. Conservative opponents of absolutism, who implore the king to surround himself with (high) noble advisors as had supposedly been the original custom, vary this theme.⁵¹⁰ They insist that the king only truly has his own

⁵⁰⁵ 414. See Mirabeau, *Ami*, 59.

⁵⁰⁶ 415. Cf., e.g., Beza, *De iure*, VI = p. 64f; Bailey, *Writers*, 384.

⁵⁰⁷ 416. Cf., e.g., Ribadaneyra, *Tratado*, II, 24-30 = pp. 326 ff.

⁵⁰⁸ 417. Hotman, *Francogallia*, XII = p. 296, 298.

⁵⁰⁹ 418. *Vindiciae*, III = p. 108f. See also p. 141ff., where an interesting division of the *Officiers du Royaume* is presented: those who deal with state affairs as a whole (Maréchaux, Pairs) and those who only administer a province (Ducs, Marquis, etc.).

⁵¹⁰ 419. See, for example, Coquille, *Dialogue ...*, I, 215 A, 230 A; *Histoire de Nivernois*, I, 389 B-390 A; *Questions*, V = II, 2, 130; Moreau, *Choix*, I, 233. See also Doolin, *Fronde*, 70ff., 143ff.; Boulainvilliers, *Essais*, 173. On the plans of Saint-Simon and Fénelon in this regard, see Tréca, *Doctrines*, 136ff., 163ff.; Gallouédec-Genuys, *Prince*, 125ff.

will and rules independently when he takes counsel from nobles; otherwise, he falls victim to his self-serving ministers.⁵¹¹

Such assurances, despite their hypocrisy, contained a historically true core. They referred to the traditional view that the king's will was merely the personified will of the *societas* as embodied by the *Oikos*-leaders; accordingly, the ensemble of the king and his (high) noble advisors could be seen as the symbolic miniature of the seamless unity between governmental authority and *societas*, where any division or opposition between state and society was inconceivable. What guarantees this unity is the fact that the same individuals simultaneously exercise functions within both government and *societas* in the same capacity. Thus, no state authority could emerge that was separate from or even hostile to the power within *societas*. However, conservatives sought not only to prevent the expansion of the state at the highest level by waging war against ministers but also to pursue the same goal throughout the entire administration, insisting that self-governance (by the *lords of the societas*, of course, who in their own view *were* the land)⁵¹² should remain intact. In this spirit, Fénelon proposed that all powers of the royal *intendants* and *financiers* be transferred to local estates, which would convene at their own discretion and regulate taxation.⁵¹³ Fénelon understood how the swelling of the state bureaucracy was connected to the creation of ever more laws and the increasing opacity of the legal system; his solution—"Peu de juges—peu de lois"—stemmed precisely from the desire to dismantle the state.⁵¹⁴ Almost a century and a half earlier, Hotman had already raised his voice against the proliferation of jurists and legal disputes.⁵¹⁵ Since the nationalization of the judiciary strongly promoted the growth of bureaucracy and also represented a process in which the opposition between government authority and *societas* became particularly evident, it provoked fierce protests, primarily based on two arguments: that the costs of trials before often remote state courts and often money-hungry state judges were unaffordable for the masses, and that salaried judges could not truly judge; proper adjudication required an intimate relationship between the judge and the accused—a relationship of strict love and care that could only exist between the noble lord and his people.⁵¹⁶ Thus began the contrast between "dead law" and "love," which would so often be used after 1789 to justify patrimonial jurisdiction,⁵¹⁷ serfdom, etc.

The nobility ultimately opposed the expansion of the modern state by

⁵¹¹ 420. Moreau, *Bibl.*, I, 14; Saint-Simon, *Lettre anonyme = Mémoires*, III, 1260ff.

⁵¹² 421. See Section 3d of this chapter.

⁵¹³ 422. *Plans de Gouvernement*, II, § III = VII, 183ff.

⁵¹⁴ 423. *A.a.O.*, II § VI = VII, 187ff.

⁵¹⁵ 424. *Francogallia*, XXVI.

⁵¹⁶ 425. Coquille, *Histoire de Nivernois*, I, 437 B; *Discours...*, I, 279 A.

⁵¹⁷ 426. See Chapter III, Section 4a.

demanding cuts to state expenditures and court costs while resisting the transformation of “voluntary” and one-time financial contributions⁵¹⁸ into regular taxation and its subsequent increases. They did so regardless of whether the taxation affected them directly, for obvious reasons: revenues that went to the state could no longer flow to the nobility, while direct taxation by the state at least indirectly turned the nobility’s subjects into state-dependent individuals.⁵¹⁹ Regular taxation further drove state expansion by fostering the development of a bureaucracy to oversee tax collection and public finances, but most importantly, it provided the government with additional resources, which both solidified and expanded its independence from *societas*. For this reason, taxation was a central issue in all conflicts between the nobility and absolutism.⁵²⁰ As the Prussian *Landräte* put it, “There is almost nothing that infringes more upon our liberties than when contributions are imposed, apportioned, and collected through military execution *sine scitu et consensu ordinum*”⁵²¹. Since the struggle was about liberties, arguments against involuntary taxation had to be drawn from the legal conception of *societas civilis*. On one hand, they invoked *justitia distributiva*, which declared *suum cuique*—property—to be inviolable.⁵²² On the other, they relied on the old distinction between king and tyrant: the king, as the supreme guardian of *justitia distributiva*, was not a *dominus bonorum, quae possidunt subditi privatim*.⁵²³ Historically, the king could only tax those living on his own *dominia*.⁵²⁴ With this memory of a happier past came the demand for the inalienability of the royal domain. A good king, they argued, should cover his expenses (which, in an era

⁵¹⁸ 427. Cf. Spangenberg, *Vom Lehnstaat*, 133.

⁵¹⁹ 428. See the references cited in footnotes 131 and 157 of this chapter. Cf. Brown, *Prov. Opinions*, 141, 144 (the *Frondeurs* openly admit that reducing the income of the lower classes through an increase in the *taille* negatively impacts their own income); Coquille, *Hist. de Nivernois*, I, 429A (it was a mistake of the nobility to agree to the taxation of the Third Estate); Boulainvilliers, *Essais*, 153 (only the *seigneur* may impose taxes on his own people, not the king).

⁵²⁰ 429. The *Ligueurs* cited alleged reasons for their uprising (*Mémoires de la Ligue*, III, 524, 526; pamphlet from 1589 titled *Les causes qui ont contraint les Catholiques à prendre les armes*) and promised a tax haven (Yardeni, *Conscience*, 247 ff; cf. Weill, *Théories*, 222).

⁵²¹ 430. An den Kurfürsten, 26.2.1659 = *Urkunden und Actenstücke*, XV, 453.

⁵²² 431. For example, Gentillet, *Discours*, 250. The Paris Parliament spoke of the *loi immuable de la propriété* and the *droit de propriété, ce droit si précieux à l’homme* in its remonstrances of 12.11.1774 and 1.6.1766 = Flammermont, III, 240; II, 575.

⁵²³ 432. Cf. Mariana, *De mon. mut.*, I = p. 249; also *De Rege*, III, 7 = p. 321. On the uniform stance of late scholastics on this issue, see Laures, *Mariana*, 204 ff. Conservative imperial publicists on this topic in Link, *Herrschaftsordnung*, 164, cf. 149; similar arguments from the Fronde period in Doolin, *Fronde*, 112 ff. At the height of absolutism, Pütter at least fought for *Schadloshaltung dessen, der an Gütern oder Rechten für das gemeine Wohl etwas einbüßen muß* (*Begriff*, § 66).

⁵²⁴ 433. Cf. Coquille, *Coutumes de Nivernois*, VIII = II, 1, 128A.

when the concept of “state expenditures” did not yet exist, were synonymous with “state expenditures”) from his own revenues.⁵²⁵ The desire to maintain this tradition can be sociologically translated into the principle that the king should be the greatest feudal lord among many, rather than the bearer of an autonomous governmental authority. In this view, autonomy meant the ability to demand and receive from *societas* whatever one wished and dispose of it at will. By advocating for the autarky of the feudal lord, conservatives thus denied the autonomy of the modern sovereign. This aim also underpinned their persistent calls for drastic courtly austerity.⁵²⁶ Any increase in court expenditures expanded the reach of governmental power (e.g., through pensions), which in turn necessitated higher taxation and a larger *state budget* overall. Despite their resistance, however, by the second half of the 16th century,⁵²⁷ the principle of exclusive royal taxation was gaining ground, marking the triumph of modern statehood through the fundamental distinction between the private and the public. The denial of royal taxation had been rooted in the medieval fusion of these two spheres, wherein royal expenditures were considered the personal affair of the king.⁵²⁸ By declaring his expenditures a matter of *societas* and collecting taxes in the name of the common good, the monarchy ipso facto brought into being the concept of the public—and, by contrast, the private. The conservative struggle against the expansion of the modern state was, therefore, also a struggle against the separation of private and public—not only in matters of conscience.

Conservative nobles were not only aware of the consequences of the expansion of a modern state apparatus but also of those resulting from the development of new economic and social forms. Let us begin our remarks on this point with a reference to the nobility’s aversion to cities and the social and economic life associated with them—an aversion that, from early on, was linked with distrust of the social consequences of cities’ autonomous growth. As early as Count zu Solms, there was a call for a radical restructuring of city governance, demanding its takeover by nobles.⁵²⁹ Before addressing the central economic and social aspect of the nobility’s relationship with the emerging modern city, it is worth briefly mentioning that conservative observers did not overlook the connection between urban development and the expansion of government authority. When Coquille denied Paris legislative competence for the entire country and defended the full validity of provincial law, he emphasized that Paris owed its size and influence

⁵²⁵ 434. A typical treatment of this question in Hotman, *Francogallia*, IX; likewise Brutus, *Vindiciae*, III = p. 161 ff. Cf. Moreau, *Choix*, I, 391.

⁵²⁶ 435. Cf. the complaint of the Württemberg estates from 26.6.1514 = Württemberg. *Landtagsakten*, I, 176 ff; Mariana, *De mon. mut.*, XIII = p. 297 ff; Fénelon, *Plans de gouvernement*, II § II = VII, 183.

⁵²⁷ 436. References in Church, *Const. Thought*, 255 ff.

⁵²⁸ 437. Spangenberg, *Vom Lehnstaat*, 134.

⁵²⁹ 438. Uhlhorn, *Graf zu Solms*, 157.

solely to the favor of kings, who generally resided there.⁵³⁰ Precisely because criticism of the absolutist state was closely linked to hostility toward the city, conservative literature seamlessly transitioned from the “city-country” contrast to the “court-country” opposition. And just as with the opposition between state officials and nobility, the social contrast here was also translated into anthropological terms, making it more vivid and dramatic. The (caricatured) type of courtier was compared to the (idealized) type of noble living in the countryside; to the servility, arrogance, and cunning of the former was opposed the honesty, generosity, and sense of duty of the latter. The enumeration of the virtues of the unspoiled noble often went hand in hand with a glorification of his environment—free nature—and a corresponding rejection of urban life.⁵³¹ Mirabeau presents, in typical form, the connection—widely drawn in the two centuries before he wrote his work—between criticism of the court and the “degenerated” court nobility, and criticism of urban culture and lifestyle. He longs for the old, simple, and natural customs of the rural and land-tied nobility, while the supposed refinement of the court nobility strikes him as decadence.⁵³² The change in the nobility’s way of life due to its alienation from the land is accompanied by a visible impairment of its ability to rule. For Mirabeau, noble rule was based on a *rapport direct du seigneur à son sujet*—a patriarchal relationship that created close personal ties. But when the absent noble is replaced by a *procureur*, these ties are largely lost, and their absence is disastrous for the moral character of both lord and subject.⁵³³ Added to this are the economic and social consequences of the nobility’s alienation from the land, evident in the neglect and impoverishment of areas that a great lord’s household would otherwise sustain.⁵³⁴ Mirabeau does not believe that flourishing cities compensate for rural impoverishment—on the contrary, what shines in the cities is purchased at the disproportionately high price of this very impoverishment. For him, this constitutes an *accroissement fictif*, a fictitious prosperity without a solid foundation.⁵³⁵ Thus, a government that encourages the nobility’s settlement in the city and at court deserves no praise, for it has made the title *gentilhomme de campagne* into a *ridicule*.⁵³⁶ Mirabeau’s vision of the future of such a government is alarming. Like other conservatives before him, he sees the link between urbanization and the swelling of the state bureaucracy and suspects that the final result of this lamentable development will be an omnipotent

⁵³⁰ 439. *Coutumes de Nivernois*, II, 1, 3A.

⁵³¹ 440. On these motives in early 17th-century England, see Lee, *Ideal*, 221 ff, 234 ff.

⁵³² 441. *Ami*, 85 f.

⁵³³ 442. *Idem*, 62 ff.

⁵³⁴ 443. *Idem*, 83.

⁵³⁵ 444. *Idem*, 116.

⁵³⁶ 445. *Idem*, 79.

and omnipresent government—*un gouvernement obligé de décider de tout*.⁵³⁷

In conservative rejection of “luxury,” criticism of the court nobility, urbanization, and new economic forms converges, with social and cultural critiques remaining inseparable. The courtly transformation of the landed aristocracy triggered an addiction to “luxury,” leading to the increasing dependence of this class—whose economic existence was still based on land ownership—on goods produced outside agriculture. This meant the loss of autarky in traditional economic forms in favor of new modes of production, resulting in the relative impoverishment of the nobility as a whole. This reality is summarized in contemporary language, but Seyssel had already warned the nobility against entanglement in commerce and impoverishment due to greed and the acquisition of costly products.⁵³⁸ However, the ability to live luxuriously established and reinforced the status of individuals or groups within a court society that was not exclusively composed of (high) nobility, providing the arena in which these individuals or groups competed. As other groups outside the (high) nobility also pursued luxury, and as (high) nobility and (high) officials became the two primary contenders in this competition, two significant consequences arose, which conservatives described as follows: first, the (high) officials had to “wring the land dry” through new taxes to satisfy their luxury and status needs;⁵³⁹ second, the acquisition of luxury and status by upstarts, “gens de néant,” intensified social antagonisms and led to a noticeable loosening—or even an overturning—of the social hierarchy based on birthrights.⁵⁴⁰ With dark colors, conservatives depicted the moral decay associated with this: “idleness” and “extravagance,” which “corrupt the nobility”;⁵⁴¹ frivolity and the often ridiculous effort to keep up with the latest fashion;⁵⁴² weakness, the loss of the nobility’s martial virtues; the hardening of calculating souls; and the shallowness of minds, detrimental to sciences and professions.⁵⁴³ Finally, two points are raised that resonate even with today’s cultural critics: that luxury and consumption create ever-new desires, making utterly superfluous things appear essential;⁵⁴⁴ and that such “consommations en superfluités” constitute a “crime contre la société qui tient du

⁵³⁷ 446. *Idem*, 123.

⁵³⁸ 447. *Monarchie*, II, 21 = p. 160f.

⁵³⁹ 448. Moreau, *Choix*, II, 410; Fénelon, *Examen de conscience...*, III § XVII = VII, 90.

⁵⁴⁰ 449. Moreau, *Choix*, II, 460; Fénelon, *Examen...* II § XII = VII, 88; Mirabeau, *Ami*, 311.

Regarding the continuity of conservative thought patterns, note Mirabeau’s reference to Fénelon (*Ami*, 268, 318).

⁵⁴¹ 450. Seckendorff, *Christen-Staat*, II, 3 § 4 = p. 187, cf. I, 2 § 12 = 1776.

⁵⁴² 451. Moreau, *Choix*, I, 438.

⁵⁴³ 452. Boulainvilliers, *Essais*, 219 ff; Mirabeau, *Ami*, 274 ff.

⁵⁴⁴ 453. Fénelon, *Télémaque*, XVII = VI, 547.

meurtre et a l'homicide," as they devastate nature to satisfy artificial needs.⁵⁴⁵

In the literature of the 16th–18th centuries, the term *luxury* is used in a very broad sense, often encompassing what would later be called *monetary economy*. It is recognized that the fatal inclination toward luxury is not only a consequence of the socio-political expansion of courtly or state power but also an effect of the emergence of new forms of wealth and economy, symbolized by money. Money represents—and at the same time drives and fosters—a form of wealth no longer tied to agricultural use-values but instead linked to commercial exchange-values, making it far more mobile and dynamic. This understanding lies behind the conservative assertion (frequently repeated after 1789) that the true wealth of a country consists in the number of its people and the land they cultivate, along with its products.⁵⁴⁶ Distrust and unease accompany the autonomization of money as an economic factor, since its very mobility can set all social relations into motion—even revolutionizing them. Money disrupts the clear, natural link between labor and its reward, or between social function and wealth, thereby eroding the principles of traditional social hierarchy while shifting the balance of power onto an opaque plane. Opposition to this autonomization and revolutionary effect of money as an economic force was already present in the 16th century—a time of great economic transformation—as well as later, with conservatives condemning monetary devaluation by governments as a dishonest taxation ploy.⁵⁴⁷ *Finance* at the time did not mean *state budget* but rather *unjust and deceitful extortion*,⁵⁴⁸ made possible precisely through the autonomous power of money. Fénelon also fights against this when he expects the Estates General to abolish “tout commercant d'argent sans marchandise excepté les banquiers necessaires.”⁵⁴⁹ Mirabeau encapsulates the cultural critique, lamenting that le Dieu de nous jours, la finance, “is zealously worshipped by all social classes, that the *esprit mercenaire* undermines all noble principles, and that anything which cannot be converted into money is met with nothing but contempt. The sentiments that hold the community together fade away, and disorder spreads.”⁵⁵⁰

The repeated emphasis on the ancient and scholastic prohibition of usury in the 16th century must be understood as an early protest against the spread and effects of the monetary economy. While it introduced nothing new in terms of content, its timing is significant. Equally telling of the changing circumstances,

⁵⁴⁵ 454. Mirabeau, *Ami*, 14, 16.

⁵⁴⁶ 455. See, for example, Fénelon, *Télémaque*, XVII = VI, 547; Mirabeau, *Ami*, 10f.

⁵⁴⁷ 456. Especially Mariana, *De mon. mut.*, III = p. 255 f., as well as *De rege*, III, 7 = p. 321 ff. Roscher, *Geschichte*, 241.

⁵⁴⁸ 457. Roscher, *Geschichte*, 241.

⁵⁴⁹ 468. *Plans de Gouvernement*, II § III = VII, 184.

⁵⁵⁰ 459. *Ami*, 209, 141, 145, see also 258.

however, is that even in late scholastic and Jesuit circles—⁵⁵¹where *usura mutuat*io was still considered a *peccatum mortale*—certain compromising tendencies began to emerge. Yet, these could not find a sufficient theoretical foundation and therefore often had to be expressed indirectly and with a guilty conscience.⁵⁵² On the whole, the traditional principle remained intact: *usury is directly against the law of God*.⁵⁵³ Those who sought to undermine this principle were well known: not the *Princes et grands Seigneurs de naissance et de dignité* but rather the *riches* and the *grands en biens*—in particular, the so-called *Traitans et Gens d'affaires*; *lesquels . . . sont les plus Grands du siècle, puis que par leur argent ils sont les plus puissans*.⁵⁵⁴ In the conservative view, the usurer was not fundamentally different from the merchant, and thus the plea for the prohibition of interest went hand in hand with demands for restricting trade. “The peasantry and craftsmen must be protected from merchants,” says Count zu Solms, “who buy up everything and export it, only to remedy the ensuing scarcity through imports, which harms local craftsmanship.”⁵⁵⁵ Even when the promotion of trade was deemed advisable, its excessive expansion—leading to luxury, among other vices—was considered undesirable.⁵⁵⁶ Merchants were also morally suspect: they were said to have *inextinguibilem sitim habent lucrandi*⁵⁵⁷, and their *principal concern was self-interest*. Seckendorff, who was well aware of the *great abuses of merchant guilds*, voiced concerns against the *expansion of manufacturing and commerce* using this argument, alongside the inevitable warnings about the dangers of luxury.⁵⁵⁸ The call for governments to focus on agriculture rather than trade continued to echo loudly well into the 18th century.⁵⁵⁹

It is well known that these positions were formulated differently from country to country and that, regarding the relationship of the nobility to commerce, the French development—despite the *noblesse commerçante*—differed from the English one.⁵⁶⁰ However, our concern here is the genesis and structure of various aspects of

⁵⁵¹ 460. See, for example, Soto, *De just.*, VI, 1,1 = p. 181 (below); Vitoria, *Comentarios*, qu. 78 = V, 152.

⁵⁵² 461. Brodrick, *Econ. Morals*, 120ff. See also Knoll, *Zins*, 116 f.

⁵⁵³ 462. See also Coke, *III Inst.*, cap. 70 = p. 150.

⁵⁵⁴ 463. Joly, *Traité*, 122, see also 126: Loans that the king takes out at high interest lead to a tax increase to ensure repayment.

⁵⁵⁵ 464. Uhlhorn, *Graf zu Solms*, 157.

⁵⁵⁶ 465. Ribadaneyra, *Tratado*, II, 11 = p. 278.

⁵⁵⁷ 466. Soto, *De just.*, VI, 2,2 = p. 195%.

⁵⁵⁸ 467. *Christen-Staat*, II, 13, §§ 5, 7.

⁵⁵⁹ 468. Mirabeau, *Ami*, 35; on Buat-Nangay, see Carcassone, *Montesquieu*, 250.

⁵⁶⁰ 469. This distinction remains despite the fact that some recent research has particularly emphasized the participation of the French nobility in capitalist activities. In essence, Carré's account (*Noblesse*, 135 ff.) remains valid. For further discussion, see Carcassone, *Montesquieu*,

conservative ideology, not whether every European noble adopted each aspect with the same level of agreement. It cannot be denied that the socio-theoretically and culturally based thesis of the superiority of landownership over money and commerce was accepted by the nobility as a whole. Even the English *noblesse commerçante* remained primarily a landowning aristocracy, and its gradual reconciliation with the industrial and commercial bourgeoisie in the 19th century required considerable self-overcoming—and no small amount of conflict. The same applies, broadly speaking, to the *laissez-faire* principle, which some conservatives at times at least partially or in a modified form approved, though from a conservative perspective, it had to be fundamentally rejected due to its connection with individualism. It is incorrect to assume that the 16th-century scholastics condemned state monopolies due to some proto-liberal preference for the free market.⁵⁶¹ They did so solely in their struggle against absolutism, which enriched itself through these monopolies, and they also did so by pointing out the violation of the principle of the *just price* through arbitrary monopolistic price setting. Hostility to free acquisition and free disposal of property grew as their paradoxical but necessary connection to the increasing complexity of legislation and the expansion of the state apparatus became apparent. When Fénelon, for instance, opposed *dispositions libres* in testamentary law, he was defending the fundamental principle: *Peu de juges — Peu de lois*⁵⁶² (Few judges—Few laws). Absolutist attempts to introduce *disposition libre* into the economy as a whole—that is, to permit economic freedom and free choice of profession—provoked the type of conservative critique that would later become standard in the struggle against liberalism. Against the plans to dissolve the guild system, the Paris Parlement invoked the dangers of individualism and unrestrained profit-seeking with words that were frequently used even after 1789: “désunir les membres de toutes les communautés, c’est détruire les ressources de toute espèce que le commerce lui-même doit désirer pour sa propre conservation; chaque fabricant, chaque artiste, chaque ouvrier se regardera comme un être isolé, dépendant de lui seule et libre de donner dans tous les écarts d’une imagination souvent dérégulée; toute subordination sera détruite; il n’y aura plus ni poids, ni mesure; la soif du gain animera tous les ateliers, et comme l’honnêteté n’est pas toujours la voie la plus sûre pour arriver à la fortune, le public entier, les nationaux comme les étrangers, seront toujours la dupe de moyens secrets préparés avec art pour les aveugler et les séduire.”⁵⁶³ The fundamental question was: “Comment la liberté indéfinie

221 ff., 232 ff.; Bluche, *Magistrats*, 222; Reinhard, *Elite*, 13 ff.; Grassby, *Social Status*, 217, 226 ff.; Bitton, *Nobility*, Ch. IV; Richard, *Noblesse*, 496, 498 ff., 500; Weis, *Franz. Adel*, 34 ff.

⁵⁶¹ 470. Höffner (*Wirtschaftsethik*, 91 ff., 113 ff.) seems to lean toward this perspective, as he seeks a reconciliation between Catholic and liberal principles.

⁵⁶² 471. *Plans de gouvernement*, II § VI = VII, 187 ff.

⁵⁶³ 472. *Remontrance* of March 12, 1776 = Flammermont, II, 346 ff.

serait-elle le moyen de concilier tous les intérêts⁵⁶⁴?—a question that concerned the entire organization of the polity. It is indeed remarkable that conservatives, from a very early stage, argued on the basis of a general theory and tackled individual problems from this perspective, even when these issues did not immediately concern the nobility. The defense of the urban guild system demonstrated that conservative argumentation, in its own way, was ideologically grounded and systematically developed.⁵⁶⁵

5. Peculiarities of English Development from the Perspective of the Antagonism Between Traditional Legal Conception and the Modern Idea of Sovereignty

The liberal legend of the royal path of the “Occident” to “freedom” often and eagerly draws on the *Whig Interpretation of History*, pointing to England as the country where a practically unanimous rejection of absolutism and the sovereignty idea associated with it set the course for the fundamental agreement of social forces and thus for an organic, freedom-oriented development. However, England’s peculiarity does not lie in having outwitted the voluntaristic arbiters of modern sovereignty through superior insight and morality—no country that crossed the threshold into the modern state managed that—but rather in two characteristics of its social development. First, sovereignty here was exercised by an oligarchy that gained and solidified its power in the struggle against both monarchical-absolutist and democratic sovereignty claims. Second, this oligarchy could not invoke the modern sovereignty idea in its own name, since this idea had, on a pan-European level, been effectively claimed by absolutism. For polemical reasons, therefore, it insisted on the fiction of the continued existence of the traditional legal conception. Which objective conditions allowed this fiction to take hold is something we shall examine later. However, the failure to recognize that this was essentially a polemically necessary fiction, and the confusion of this fiction with socio-historical reality, creates the optical illusion that prevents one from seeking and finding the true distinctiveness of English development where it actually lies. It must also be added that England’s path was by no means the inevitable outcome of a historical process supposedly beginning with the *Magna Carta*, as the legend claims, but rather the result of decisions made in the 16th and 17th centuries. This holds true even if one is inclined—indeed for good reasons—to consider England’s insular position as an important factor in explaining its domestic political peculiarities.⁵⁶⁶

By the end of the 15th century, English political theory largely consisted of repetitions and variations of the legal conception of the *societas civilis*. Fortescue saw human law as an expression of divine *iustitia perfecta* rather than the product

⁵⁶⁴ 473. *Remonstrance* of May 8–19, 1776 = Flammermont, III, 375.

⁵⁶⁵ 474. Palmer, *Zeitalter*, 482 ff.

⁵⁶⁶ 475. So Hintze, *State and Constitution*, 49, 69, 3646.

of a sovereign (royal) will.⁵⁶⁷ He referred to Aristotle when discussing the organic structure and ethical purpose of the state⁵⁶⁸ and combined statements from Aquinas to formulate his political ideal—*dominium politicum et regale*.⁵⁶⁹ The defense of royal authority inherent in the term *regale* reveals the desire to overcome the bloody feudal anarchy that plagued England in the 15th century,⁵⁷⁰ while the prioritization of *politicum* implies that the danger of "tyranny," which Fortescue saw firsthand in France,⁵⁷¹ was considered even greater. The deviations from this general view, which gradually took shape from the Reformation period onward, reveal a significant strengthening of the *regale*—but, and this is the crucial point, only under certain conditions and in pursuit of specific goals. The sovereignty of the monarch was emphasized in an unprecedented way when the struggle against the papacy and the broader domestic and foreign threats posed by Catholic powers took center stage. Conversely, when the relationship between the monarch and the people—that is, the secular *Oikos*-leaders—came to the fore, the traditional legal conception of the *societas civilis* was readily upheld. This, of course, reflected the fundamental reality that the socio-political life of the country was not primarily shaped by a conflict between the Crown and the estates but rather by the struggle of the Crown—aligned with the estates—against domestic and international Catholicism.⁵⁷² This dynamic led to an anti-clerical and simultaneously anti-absolutist stance, as represented by the jurist St. German,⁵⁷³ who sought to subject the Church to the King while keeping the King bound by the good old law. The subjugation of the Church to the King initially meant that the estates recognized the King's *potestas jurisdictionis* in place of the Pope and the domestic clergy.⁵⁷⁴ This arrangement ensured that the King's authority over the Church did not take on the character of a permanent sovereign act that might one day extend to the *societas civilis* as a whole. The unity of Church and State on this basis, as we know,⁵⁷⁵ shared only superficial similarities with the medieval doctrine of the two swords.⁵⁷⁶ However, the preservation of this fiction symbolically represented the

⁵⁶⁷ 476. *Laudibus*, IV = p. 10. The king is, in the traditional sense, a judge and "*rex non potest mutare leges regni sui*" and enacts statutes only "*totius regni assensu*" (*Laudibus*, I, IX, XVIII = pp. 2, 24, 40). On this conception of royal duties in 15th-century England, see Chrimes, *Constitutional Ideas*, especially pp. 14ff., 61ff., 343. Cf. Baumer, *Tudor Theory*, Ch. I.

⁵⁶⁸ 477. *Laudibus*, IV, XIII = pp. 10, 30.

⁵⁶⁹ 478. *Governance*, I = pp. 109ff. Cf. Chrimes, *Constitutional Ideas*, 315ff.

⁵⁷⁰ 479. *Governance*, V ff. = pp. 118ff.

⁵⁷¹ 480. *Laudibus*, XXXIV-XXXV = pp. 78, 80, 82, 84; cf. *Governance*, I-IV = pp. 113ff.

⁵⁷² 481. Baumer, *Tudor Theory*, 125ff.

⁵⁷³ 482. Dickens, *Reformation*, 96ff. Cf. George, *Protestant Mind*, 220ff.

⁵⁷⁴ 483. Baumer, *Tudor Theory*, 29ff., 37, 59.

⁵⁷⁵ 484. Cf. our remarks on Hooker in section 4c of this chapter.

⁵⁷⁶ 485. Insofar as the Catholic ultramontane reaction against the new order was justified.

fact that the subjugation of one part of the *societas civilis* (i.e., the Catholic Church) was achieved through the collaboration of another part (i.e., most secular *Oikos*-leaders), who were not willing to allow the newly strengthened royal sovereignty to fundamentally and permanently transcend traditional limits. Therefore, the old principle that new law was essentially an interpretation of the old was maintained as much as possible, and even the confiscation of church property was justified accordingly.⁵⁷⁷ Most importantly, however, the foundational assumption remained untouchable: human law was not a human creation but an emanation of divine reason and order.⁵⁷⁸ On the other hand, the general strengthening of royal sovereignty found (indirect) expression in the fact that the doctrine of resistance played only a minor role in political debates. Even Catholics, who, like the *monarchomachs* on the Continent, hurled the commonplaces of *societas civilis* legal thought at the anti-papal monarchy, generally recoiled from openly advocating disobedience or tyrannicide.⁵⁷⁹ Among the conservative supporters of an anti-papal monarchy, the simultaneous rejection of the right of resistance and the continued insistence on the monarch's traditional legal and moral obligations produced a theoretical ambivalence.⁵⁸⁰ This was, however, a tactically expedient hybrid position, since the traditional legal conception was historically associated with the right of resistance just as much as the rejection of this right was linked to the modern idea of sovereignty. This ambivalence necessarily arose from the dual reality that the secular part of the *societas civilis* supported a sovereign act against the Catholic-ecclesiastical part of the same *societas* while simultaneously refusing to grant full sovereignty to the author of this act.

The open execution of a sovereign, indeed revolutionary act, despite all the casuistry concerning the alleged interpretation of old law, had to nourish the conviction—or at least the suspicion—that law and statute were in reality made.⁵⁸¹

On this, as well as its negative alignments with the Puritan position, see George, *Protestant Mind*, 181-210, and Salmon, *Religious Wars*, 30ff. Good remarks on the entire issue can be found in Powicke, *Reformation*, especially pp. 50, 55, 115, 119.

⁵⁷⁷ 486. Baumer, *Tudor Theory*, 157, 159. On the rhetorical skill already developed in the 15th century, allowing for the distinction between *statutes introductory of new law* and *statutes declaratory of old law*, yet still presenting new law as an interpretation of the old, see Chrimes, *Constitutional Ideas*, 249, cf. 283.

⁵⁷⁸ 487. See, for example, St. German, *A Dialogue...* = Elton (ed.), *Tudor Constitution*, 237. On Hooker's multiple borrowings from Thomas in this regard, see Munz, *Place of Hooker*, 51ff., 175ff., as well as Shirley, *Hooker*, 75.

⁵⁷⁹ 488. Morris, *Political Thought*, Ch. 7. The arguments of opponents of the right to resistance are summarized by Baumer, *Tudor Theory*, especially 103ff. To the extent that the right to resistance was invoked at all, it served, just as on the Continent, both Catholics (such as the Jesuit Parsons, Morris, *Political Thought*, 135) and their opponents (such as the Anglican Bishop Poyntet, Gooch, *Democratic Ideas*, 30ff.).

⁵⁸⁰ 489. On this ambivalence in Hooker, see Shirley, *Hooker*, especially 97, 130.

⁵⁸¹ 490. Moss, *Struggle*, 26.

If the beginnings of such insights were scarcely pursued further but rather soon buried under conventional assumptions, this was because the then-prevailing alliance of secular estates—which had much to gain from the seizure of church property and were thus generally anti-clerical—and the Crown momentarily rendered any dispute over the feasibility of law—⁵⁸²and thus its maker—irrelevant. The community of interests was temporarily established: if the secular part of the *societas civilis* was allowed to enrich itself and expand its sphere of influence through the anti-papal struggle, then for the monarchy—which was not sovereign in the modern sense and ideologically bound to the traditional conception of law—the enhancement of the estates' participation in Parliament served as a welcome means of either sharing or obscuring responsibility, or of finding accomplices and scapegoats for everything and anything.⁵⁸³ The legend that England had always been a parliamentary monarchy gradually took shape as the estates' representation in Parliament began to understand and present as its own right what had been conceded by the Crown—albeit with its own purposes in mind.⁵⁸⁴ For understanding the situation in 16th century England, it is essential to remember that the concept of Parliament in no way coincided with that of estates' representation but included the Crown just as much. It is precisely this inseparable unity of King and estates' representation that Smith has in mind when he writes that every Englishman is present in Parliament, that its consent is the consent of everyone, and that it thus forms “*the whole universall and generall consent and authoritie*”⁵⁸⁵. The same view is reflected in Aylmer when he praises England's mixed constitution.⁵⁸⁶ This very conception of Parliament demonstrates that the supreme authority or sovereignty attributed to it must not be understood in a modern sense but rather in the sense of the *societas civilis*. For the general consensus achieved in Parliament—even in acts that violated *iustitia distributiva*—created the impression, or at least made the fiction plausible, that the legal understanding of the *societas civilis* continued to form the ideal foundation of the commonwealth. Thus, although Parliament at the time carried out sovereign acts, this did not fundamentally alter the prevailing conception of its function; that is, it did not lead to a separation of its judicial from its legislative tasks. The attribute “*supreme*” continued to denote merely a final court of appeal, rather than the modern form of sovereignty concentrated on legislation.⁵⁸⁷

⁵⁸² 491. Lehmborg, *Reformation Parliament*, passim.

⁵⁸³ 492. Baumer, *Tudor Theory*, 143ff., 149.

⁵⁸⁴ 493. Allen, *History of Political Thought*, 262ff.

⁵⁸⁵ 494. *De Republica Anglorum*, II, 1 and 4 = pp. 35, 47.

⁵⁸⁶ 495. *An Harborowe...* (1559) = Elton (ed.), *Tudor Constitution*, 16.

⁵⁸⁷ 496. McIlwain, *High Court*, 124ff., 129, 134, 136, 143ff. Elton, who points out the actual legislative activity of Parliament (*Tudor Constitution*, 228ff.) against McIlwain, overlooks the mentioned discrepancy between practice and theory, as well as the practical causes of this

As already indicated, the material—and apparently decisive—reason for approving the increase in royal sovereignty within the framework described was, from the perspective of the dominant secular part of the *societas civilis*, the highly profitable confiscation of the Catholic Church's property, which benefited them as well. The strengthened royal sovereignty served, among other things, to ensure the validity of the legal titles of all purchases of church land—⁵⁸⁸ just as, conversely, any claim to power by a Catholic king or one suspected of Catholic sympathies was opposed, not least out of fear that such validity might be jeopardized.⁵⁸⁹ We cannot revisit here the much-debated question of who primarily benefited from the sale of the confiscated land—whether it further strengthened the already powerful or effectively brought the *gentry* into existence, which trend prevailed in the short term and which in the long term, etc.⁵⁹⁰ One way or another, there was a massive shift in wealth and influence, with the relative power position of the Crown growing ever weaker, as it secured only temporary advantages and financial relief through continuous partial sales, while the *societas* as a whole—and, correspondingly, its internal differentiation—grew stronger. This was quantitatively reflected in the significant increase in estates' representation in Parliament during the second half of the 16th century.⁵⁹¹ In this way, the Crown lost the material means to fully pursue the absolutist path set in motion by Thomas Cromwell's administrative and governmental reforms.⁵⁹² Not without reason has it been suggested that had the confiscated church lands remained in the hands of the English Crown, the course of English history might have been decided in favor of absolutism.⁵⁹³ Systematic comparative research on the respective role of royal domains in the development of absolutism on the Continent would undoubtedly be highly instructive.

The collaboration—not between King and Parliament, but between King and estates' representation within Parliament—deprived English political thought

discrepancy; thus, the fact of the unbroken dominance of the traditional view in the 16th century remains unexplained. On early forms of later developments in the 15th century, see Crimes, *Constitutional Ideas*, especially 70ff., 125ff., 141.

⁵⁸⁸ 497. Powicke, *Reformation*, 25ff.; cf. Judson, *Crisis*, 82.

⁵⁸⁹ 498. This fear was alive not only under Mary (see Dickens, *Reformation*, 264) but even under James II. As Bonald wrote, the Revolution of 1688 was not the work of the people but of the aristocracy, "*qui craignit que la tendance des derniers Stuarts au catholicisme, ou même la profession ouverte qu'en faisait Jacques II, ne remit en question la légitimité de possession des biens de l'Église, dont les grandes familles s'étaient emparées*" (*Démonstr. Philos.*, XIV = *Oeuvres*, VIII, 89).

⁵⁹⁰ 499. Various perspectives on this can be found in Tawney, *Rise of the Gentry*; Habakkuk, *Monastic Property*; Dickens, *Reformation*, especially p. 159 ff.; Knowles, *Rel. Orders*, 393 ff.

⁵⁹¹ 500. On this, see also Neale, *House of Commons*, 133 f.

⁵⁹² 501. These developments were impressively described by Elton, *Tudor Revol.*, *passim*.

⁵⁹³ 502. See also Dickens, *Reformation*, 150; Knowles, *Rel. Orders*, 398; Trevelyan, *Social History*, 121 f.

under the Tudors and early Stuarts of its productive polemical edge and left little room for either the conceptual precision of the new doctrine of sovereignty or for *monarchomach* fervor. This is also reflected in the reception history of Bodin and Buchanan in England around 1600.⁵⁹⁴ The socio-political constellation remained, grosso modo, in line with the traditional one up until the Civil War, where the two relevant aspects at the time—namely, the supremacy of law and the prerogative of the King—were equally upheld.⁵⁹⁵ These aspects were considered and combined in different ways by different socio-political actors in order to account, from their respective perspectives, for the paradoxical fundamental fact of 16th-century development: that both the position of the Crown and that of estates' representation were simultaneously strengthened. However, such a concurrent strengthening of two heterogeneous entities could only occur in different respects: while the monarchy partly consolidated and partly expanded its prerogative, thereby bringing the now-broadened domain of *government* under its uncontested control, the *societas* gained an equally expanded sphere of *property*. According to the *societas*, the (accepted) strong royal prerogative had to halt before the sphere of *property*; indeed, it was meant to exist in its full strength precisely to protect that sphere. For the Crown, however, intervention in property rights was, from time to time, necessary, as its own revenue—due to the expansion of the *societas*' property sphere—did not grow at the same rate as the strengthening of *government* demanded, both domestically and in foreign affairs.⁵⁹⁶ Yet, since the longstanding collaboration of Crown and *societas* against the Catholic enemy had blocked the entry of the sovereignty doctrine—then developing on the Continent—into English political thought, the new reality continued to be conceptually articulated through mere reformulations of traditional legal conceptions. As a result, even after the outbreak of conflict, debates still relied on the old terminology, framing the matter as a struggle between royal prerogative and *justitia distributiva*—or at least presenting it as such. Lacking a new theoretical framework to oppose the old one, ideological polemics instead manifested as a battle over the *true* interpretation of the old. This question of interpretation became all the more pressing and intricate due to the emerging discrepancy between the legal conception of the *societas civilis* and that of the English *societas* as it had evolved after the Reformation. The latter was no longer the traditional *societas*, making it increasingly difficult to comprehend events through interpretations rooted in traditional thought. Hence, during the Civil War, the old question—“Who interprets the law?”—ultimately had to be replaced by a new one: “Who *makes* the law?”

The exclusion of the (modern) question of sovereignty, brought about by the

⁵⁹⁴ 503. On this, see also Salmon, *Rel. Wars*, 18, 20, 22; Moss, *Struggle*, 284.

It was only during the Civil War that *monarchomach* doctrines became widespread in England (see Jiszi-Lewis, *Against the Tyrant*, 800).

⁵⁹⁵ 504. See Section 3b of this chapter.

⁵⁹⁶ 505. See also Judson, *Crisis*, chap. III; Gough, *Fundamental Law*, 68; Ritter, *Parliament*, 56.

developments of the 16th century, also characterizes the conflicts between estates' representation and the Crown in the first decades of the 17th century. This exclusion generally takes place through the gradual emergence of the concept of *fundamental law* or *common law*, which was projected retroactively into the past and thus acquired a kind of retrospective force. This concept reaffirmed that law is not *made* but has existed since time immemorial, evolving slowly through changes in custom and popular sentiment. Furthermore, it reinforced the idea that, within this legal framework, royal prerogative—being a self-evident component of fundamental law—must be subsumed under it and therefore should not be understood as sovereignty in the modern sense.⁵⁹⁷ It is important to note that, from the perspective of a *common law* theorist like Coke, the rejection of royal sovereignty was by no means the flip side of a (covert) plea for the sovereignty of estates' representation. Rather, it was based on a fundamental rejection of modern sovereignty as such. More precisely, modern sovereignty was not *rejected*—it simply did not appear on Coke's theoretical horizon at all. For Coke, estates' representation possessed its rights and privileges⁵⁹⁸ and fought to defend them, just as the King had his prerogatives, which he also had to defend from time to time. However, these struggles between both sides were to take place within a clearly defined framework, as both were equally subject to the law—that is, to *fundamental law* or *common law*. Therefore, sovereign claims from estates' representation were just as impermissible as those of the King.⁵⁹⁹ Here, *Parliament* does not stand for estates' representation alone but, as in Smith's usage, refers to "*lords, commons, and king*" as a unified body of will and function.⁶⁰⁰ Thus, it could be claimed that the *power and jurisdiction* of Parliament were "*transcendent and absolute*"⁶⁰¹ without this contradicting its subordination to *common law*: the first statement does not imply the legislative sovereignty of Parliament, nor does the second imply its denial.⁶⁰²

How deeply even the Crown was embedded in this way of thinking is demonstrated by the manner in which James I and Charles I sought to substantiate their claims in the political circumstances of their time.⁶⁰³ It was only around the

⁵⁹⁷ 506. See Pocock, *Ancient Constitution*, 32–34; Gough, *Fundamental Law*, 59, 64.

⁵⁹⁸ 507. Coke's systematic use of the plural (5.2, *B. IV Inst.*, cap. 1 = p. 49) was connected to the absence of a constitutional concept in the modern sense. On this absence and the difference between the modern concept of constitution and *fundamental laws*, see Wormuth, *Prerogative*, 47, 33 f.

⁵⁹⁹ 508. See also Gough, *Fundamental Law*, 48 ff., 64; Moss, *Struggle*, 139 ff.; Gooch, *Political Thought*, 64; cf. Allen, *English Political Thought*, 36.

⁶⁰⁰ 509. *IV Inst.*, c. 1 = p. 24.

⁶⁰¹ 510. *IV Inst.*, c. 1 = p. 36.

⁶⁰² 511. See also McIlwain, *High Court*, 147 ff.

⁶⁰³ 512. Regarding the speech given by James I in Parliament on March 21, 1610, see Kenyon (ed.), *Stuart Constitution*, 12–14, and cf. the analyses by Allen, *English Political Thought*, 4 ff.; Moss, *Struggle*, 57 f.; Ritter, *Parliament*, 20 ff.

mid-17th century, in light of the bitter experiences of the Civil War, that English absolutists attempted to aid the King's cause with the weapons of the modern idea of sovereignty. However, tellingly, they remained a small and largely ignored minority. Most Royalists did not develop a theory of sovereignty but rather defended the prerogatives of the Crown by invoking *fundamental law*. Their argument was not that the King was sovereign and that no law or fundamental principle existed independently of his will; on the contrary, they assumed that royal prerogatives formed an integral part of the existing legal order and could not be curtailed by the *societas* represented in Parliament. They supported the King's right, if necessary, to override the law—but not a right to create law at his sole discretion.⁶⁰⁴ This latter view was based on the distinction between *absolute* and *ordinary* royal power. In the new political situation, however, it was precisely the *absolute* power that caused the greatest difficulties. The King's apologists were unsure whether they should place it above the law or somehow integrate it into the legal order. In other words, they could not decide whether prerogative power brought the King's authority closer to sovereignty—as Forsett argued—or whether it did not affect the nature and function of the traditional constitution at all. In the latter case, prerogative would not constitute an indivisible and original general competence but rather the occasional exercise of one among many interconnected royal privileges.⁶⁰⁵

Even the parliamentary opposition initially lacked a coherent conception of sovereignty and instead sought to navigate the new situation ideologically through reinterpretations of the old theory. This was due less to the often-highlighted fact that a significant portion of the rebels—if not in numbers, then at least in combat effectiveness—adhered to generally conservative views owing to their membership in the *peerage*, and more to the fact that this older theory had been largely unproblematically embedded in all layers of the *societas* as a result of the balance of interests established in the 16th century.⁶⁰⁶ Even Pym,⁶⁰⁷ firmly rooted in the world of commerce, was unable to produce more striking arguments than the assertion that the royal prerogative—whose legitimacy, he assured, no one wished to deny or curtail—must nevertheless be limited by law and the liberty of the people.⁶⁰⁸ Similarly, the *Declaration of the Lords and Commons* of June 6, 1642, did not claim

⁶⁰⁴ 513. Charles I, in turn, took refuge behind the traditional theory of mixed government; see his *Answer to the Nineteen Propositions* (June 18, 1642) = Kenyon (ed.), *Stuart Constitution*, 21. However, this very theory could also be appropriated by the opposing side with the necessary shifts in emphasis; see Weston, *Mixed Monarchy*, *passim*.

⁶⁰⁵ 514. See also Allen, *English Political Thought*, 482 ff.; Pocock, *Ancient Constitution*, 54 ff.; Zagorin, *History*, 190 ff.

⁶⁰⁶ 515. Zagorin, *Court*, 90 ff.

⁶⁰⁷ 516. See also Hexter, *Reign of King Pym*, 77 ff.

⁶⁰⁸ 517. The texts (from November 25, 1640, and April 13, 1641) can be found in Kenyon (ed.), *Stuart Constitution*, 207, 214 ff.

legislative sovereignty for the two houses but merely reiterated the old principle that the binding will of the King could only be declared *in and through* Parliament.⁶⁰⁹ However, these commonplaces took on a previously unknown meaning and impetus, as they were now directed against a specific target—namely, royal power. Previously, they referred to Parliament as an indivisible entity consisting of Lords, Commons, and King. Yet, at the moment when the two houses of Parliament and the King stood in opposition, the concept of Parliament—at least indirectly—became identified with the two houses alone. As a result, the competencies that had belonged to Parliament in the older sense were now transferred to the two houses, that is, to a new Parliament standing in opposition to the King. The invocation of old principles by the two houses, following this dramatic—though not explicitly articulated—transformation of the concept of Parliament, implied that the King was to submit to the estates' representation, meaning that his prerogatives were to be interpreted and exercised according to their discretion. However, the appropriation of royal prerogatives by the estates amounted to a break with *fundamental* or *common law*.⁶¹⁰ And to the extent that this break was carried out, the constant assertion that one was acting in accordance with the law could ultimately only mean that one's own actions and the law were identical—or that law itself was a product of one's own actions.⁶¹¹

The factual deviation of the two houses of Parliament from the old law is the deeper reason why the appeal to traditional thought, under these new circumstances, not only takes on a new meaning but also leads to a blending of that thought with novel or modern elements in varying degrees and at different levels of consciousness. The concept of *fundamental law*, which proved flexible enough to accommodate the interests of all parties—including even the radical natural-law ideas of the Levellers—was now grafted with notions such as *salus populi* and popular sovereignty.⁶¹² This means that at least the most radical opponents of the Crown broke out of the traditional argumentative framework to employ arguments that were political (in the new sense) rather than legal (in the old sense). In the frequent cases where *common law* favored the royalist position, they did not concede defeat on legal grounds but instead shifted the entire level of debate. They now spoke in the name of new authorities, presenting themselves as the

⁶⁰⁹ 518. See also Kenyon (ed.), *Stuart Constitution*, 248 ff.

⁶¹⁰ 519. Wormuth, *Prerogative*, 60; cf. 29.

⁶¹¹ 520. As Allen puts it in his invaluable formulation: "*It was impossible to maintain that they were claiming only such powers as law gave them, except by saying that the law actually was whatever they chose to say it was... Yet they had proceeded to disclaim any power to make new law. They seemed to be saying that whatever they thought ought to be law must actually be law, and that, therefore, in declaring it to be so, they were not making new law, even though nobody had ever heard before of the rule laid down*" (*English Political Thought*, 395).

⁶¹² 521. See also McIlwain, *High Court*, 75 ff.; Gough, *Fundamental Law*, 80 ff., 115 ff.

representatives—or even as the embodiment—of the entire people, for whose *salus* and *bonum* they alone bore responsibility.⁶¹³ The new concept of Parliament took shape and solidified precisely through this increasing identification of Parliament with the people, which in turn legitimized the former through the latter. By reinterpreting Smith's belief that every subject was present in Parliament, it was now asserted that the people were neither above nor below Parliament but rather that they *were* Parliament itself. Consequently, its decisions could be subject to no external control.⁶¹⁴ However, once Parliament was torn from the framework of *fundamental law* or *common law* by the expulsion of the King, law was no longer the creator and precondition of Parliament but rather its *creation*. In this line of thought, the new concept of law and the new concept of Parliament fused together. Thus, Parliament ceased to be a *High Court* and became primarily a legislative body; in place of *jus dicere*, within the framework of the old Parliament, now stood *jus dare*.⁶¹⁵ This had two further significant consequences that must be briefly noted. First, the legislative sovereignty of Parliament necessarily led to a strengthening of state power. Within the *societas civilis*, the belief in the divine origin of law corresponded to a lack of concrete means of coercion for its enforcement—hence, the atrophy of statehood. But if, by contrast, the creator of the law was visible and identifiable, the obligation to make its own law binding became far more pressing in order to affirm its function as a sovereign legislator. Theorists of parliamentary sovereignty, such as Parker, inferred from the practical impotence of the *old* law the necessity of equipping the legislative Parliament with sovereign power as the only means to enforce the *new* law. With Parker, the second logical consequence of parliamentary legislative sovereignty also emerges: the view that law is a secular entity, concerned with human needs and purposes.⁶¹⁶

For an understanding of England's situation in the 18th century—and, above all, of the crucial fact that the oligarchy, which then ruled sovereignly, did *not* legitimize itself by drawing on the theories of parliamentary sovereignty developed around 1650—it should be noted that these theories were largely formulated by radical democratic minorities, who linked them to demands for broad popular participation in parliamentary elections, proportional representation of the population in Parliament, and similar measures.⁶¹⁷ Just as sovereignty in general carried the scent of absolutism, so too did parliamentary sovereignty, in particular, carry the scent of democracy—and in both respects, the memories of the

⁶¹³ 522. Judson, *Crisis*, 248 ff., 274 ff.

⁶¹⁴ 523. Wormuth, *Prerogative*, especially 68; cf. Parker's argument as presented by Allen, *English Political Thought*, 426 ff. The idea that the people stood above the law while the King stood beneath it was also explicitly expressed—see strong evidence in Kliger, *Goths*, 261.

⁶¹⁵ 524. McIlwain, *High Court*, 94.

⁶¹⁶ 525. On these two points, see Judson, *Crisis*, 158, 357, 409 ff., 422.

⁶¹⁷ 526. See, for example, *The First Agreement of the People*, dated October 28, 1647 = Kenyon (ed.), *Stuart Constitution*, 309.

oligarchy around and after 1700 were fresh and painful. Although precisely at the time of consolidating its ranks and pursuing decisive domestic and foreign policies, much more modern political theories—such as Locke’s—were developed, which the oligarchy *could* have drawn upon, it instead adhered to a construction that was fundamentally ambiguous but also flexible and manipulable, where the commonplaces of *societas civilis*’ legal conception at least served as a façade. And yet, after 1688, various phenomena emerged simultaneously at multiple levels, which may be interpreted as signs of the exercise of modern sovereignty by an oligarchy remarkably skilled in building a state apparatus. In the economic sphere, a comprehensive redistribution and concentration of landed property took place, favoring the already wealthy at the expense not only of peasants but also of many middle and lower gentry.⁶¹⁸ In the political sphere, the broader gentry—who, after the victory of 1688, had sought to expand their local and parliamentary power with newfound confidence—were pushed back. Their relentless factional struggles had made the political game chaotic and threatened to paralyze the state’s functionality. Henceforth, political affairs were increasingly dominated by a powerful minority that put an end to this disorder by imposing its own rules on the *societas*.⁶¹⁹ At the level of central government, an unprecedented strengthening of the executive and administration took place—both in response to expanding foreign policy activities, which were tied to commerce and colonial expansion, and to manage the fiscal demands arising from these engagements. By the early 18th century, England possessed the most efficient state apparatus in all of Europe. The development of the cabinet system was due less to the weak personalities of monarchs than to this executive consolidation.⁶²⁰ This is not a retrospective reconstruction of the situation in terms familiar to us today, but rather a development that was fully recognized by contemporaries. As Blackstone wrote, under the pressure of new state responsibilities, “such a weight of power [was] into the executive scale of government, as we cannot think it was intended by our patriot ancestors; who gloriously struggled for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foresight established this system in their stead.”⁶²¹ The lament over the ancestors’ lack of foresight amounts to an acknowledgment of the truly decisive fact: the oligarchy, whether willingly or unwillingly, had to assume the functions and take the measures that absolutism had once claimed for itself—if it wanted to meet the responsibilities that now came with its direct control over the state. The burdens that had seemed intolerable when the monarch sought to impose them on the *societas* for seemingly personal ends were now borne, more or

⁶¹⁸ 527. See also Habakkuk, *Landownership*, especially pp. 2, 5; *Disparition*, especially pp. 657 ff. Mingay follows him in *Landed Society*, 50 ff.

⁶¹⁹ 528. Plumb, *Growth*, 20 ff., 62, 96. On restrictions in electoral eligibility, see Meyer, *Wahlrecht*, 30 ff.

⁶²⁰ 529. Plumb, *Growth*, 13, 99 ff.

⁶²¹ 530. *Commentaries*, I, I, 337.

less willingly, when they served its own rule. The oligarchy thus proved itself capable of disciplining⁶²² both itself and the country under its rule, making an absolute monarchy unnecessary. Moreover, it demonstrated enough competence and foresight to pursue both politics and commerce simultaneously and on an international scale. Had it not been capable of initiating England's rise in the 18th century—precisely by consolidating its own position at the helm of the nation—the defeat of absolutism might have had disastrous consequences for England's future.

As a creation of the oligarchy, the strong executive naturally served its interests, as did the legislature, which was also *flesh of its flesh* and, through the relentless passage of laws, created the favorable conditions for the oligarchy's activities in all domains—especially in the economic sphere.⁶²³ Observers of the English scene in the 18th century, such as Burke, were well aware of this previously unknown and even unthinkable legislative dynamism, and they also knew that “*it is absolutely necessary to have frequent recourse to the legislative.*”⁶²⁴ Regardless of how the executive and legislative branches related to each other—depending on the shifting balance of power among the competing factions of the oligarchy, and regardless of which held the upper hand at any given time—the fact remains that both experienced an extraordinary intensification of activity. This unmistakably indicates that modern sovereign statehood was in the midst of an unstoppable ascent. This makes it all the more interesting to explain the paradox that, despite this reality, little was said about sovereignty and statehood. The previously mentioned unpleasant memories of absolutism and democracy certainly played a role in suppressing such discourse. Beyond this, however, there were structural reasons within England's socio-political reality in the 18th century that sustained the fiction of an unbroken continuity of *societas civilis* and its legal conception. First and foremost, there is the fundamental fact that both the executive and legislative branches were not only fully under the control of the oligarchy but were also entirely composed of its members. Even corruption, which flourished in 18th-century England in spectacular forms, should not be understood in today's sense—that is, as the illegitimate influence of state officials by external actors. Rather, it functioned as a mechanism through which members of the oligarchy merely distributed among themselves what already belonged to them collectively, rather than to a separate state apparatus. Corruption, therefore, from a certain

⁶²² 531. A farsighted act of self-discipline was, for example, the *land tax*, which, as we must remember, was paid by the landowner and not by the tenant. Relevant details can be found in Ward, *Land Tax*, especially pp. 17 ff., 66; cf. Habakkuk, *Landownership*, 9. The continual growth of wealth significantly eased the burden of taxation, as Coleridge later noted in contrast to Paine; see *On Taxes and Taxation*, *The Friend* = CW, IV, 237.

⁶²³ 532. Important examples of legislative activity from the period immediately after 1688 can be found in Ogg, *England...*, 120, 282, 283, 305 ff., 308, etc.; cf. Trevelyan, *Social History*, 206, 209, 224, 235.

⁶²⁴ 533. Burke, *Thoughts on the Causes, etc., Works*, I, 494.

perspective, highlighted the essential identity between the oligarchy and the state, merely confirming that the self-governance of the oligarchy and the administration of the state largely coincided. Of course, corruption was not the most important aspect of this oligarchic self-governance, which had direct political relevance. Far more significant, for example, was the collection of the *Land Tax* by local oligarchs themselves rather than by royal officials, as well as the policing and judicial functions performed by landowners. In this way, the state did not appear as a rigid and detached apparatus standing over society but rather as its most eminent and venerable part—so deeply intertwined with the *societas civilis* that it created the impression that people still lived in a blissful pre-state condition. The collective nature of oligarchic rule enabled it to present itself as *the* people—the very physical subject and object of *common law*. However, the vast, unspoken, or unacknowledged difference was that the *people of common law* had never imagined, let alone appropriated, the vast powers and competencies that this oligarchy now wielded.

Blackstone states unequivocally that “*our gentlemen of independent estates and fortunes*”—who simultaneously served as jurors, justices of the peace, or sat in Parliament—were “*the makers, repealers, and interpreters of the English laws.*”⁶²⁵ The way he speaks about their landownership, which he considers the principal subject of legal science, offers valuable insight into the social outlook of these gentlemen. Notably absent are feudal romanticisms about an eternal bond to ancestral land. Instead, *commercial traffic* in rural estates appears purely as a matter of *convenience*, not of principle; testamentary dispositions are not bound to family traditions, and it is explicitly stated that the feudal system belongs to the past, with modern landownership no longer having any connection to a *military plan*.⁶²⁶ Indeed, the de-feudalization of landownership accelerated rapidly during the 17th century, with feudal dues making up an increasingly smaller portion of landlords’ incomes.⁶²⁷ This had two major consequences for the mindset of the oligarchy. First, social status was increasingly determined by landownership rather than noble birth, or rather, landownership became the proof of noble birth.⁶²⁸ Second, patriarchal attitudes largely disappeared, making the English aristocracy at least partially receptive to the ideology of *laissez-faire*.⁶²⁹ This gave rise to an unsentimental, utilitarian, and *hard-headed realism* perspective on social matters, in which concern for *property* was central.⁶³⁰ At the same time, in later conflicts with radical or revolutionary opponents—both domestic and foreign—certain conservative themes

⁶²⁵ 534. *Commentaries, Introduction*, § 1 = I, 7–9.

⁶²⁶ 535. *Commentaries*, II, 1 and 4 = II, 9 ff., 13, 58.

⁶²⁷ 536. Ogg, *England*, 55 ff., 69 ff.

⁶²⁸ 537. Kluxen, *Engl. Adel*, 11.

⁶²⁹ 538. Blake, *Conservative Party*, 14.

⁶³⁰ 539. Mingay, *Landed Society*, 116.

remained alive within the broad spectrum of England's *landed society* in the 18th century. However, these themes never coalesced into a coherent theory like those of Fénelon or Coquille. Instead, they emerged in an unsystematic manner within the struggle between the *landed interest* and the *moneyed interest*. The *country ideology*, if it may be called that, revolved around complaints about the ever-growing national debt, which primarily benefited the *moneyed men*. Consequently, they were blamed for the expansion of the state apparatus, the standing army, and warmongering in general, while their greed and corruption were contrasted with the *natural virtues* of the rural gentleman.⁶³¹ Bolingbroke, who gave vivid expression to these central themes of *country ideology*, expected his ideal *Patriot King* to implement tax cuts and end the policy of national debt accumulation.⁶³² In advocating *frugality*, he simultaneously warned that continuing the current policies would place an even greater burden on the *landed men*, who bore the *land tax*.⁶³³ Since such complaints and proposals were often accompanied by broader moral reflections on the corrupting effects of money and commerce, some voices praised the *good old feudal-patriarchal days*.⁶³⁴ However, such nostalgia remained marginal—it was never elevated into a political program. Bolingbroke himself, despite his scathing critiques of the *moneyed interest* and corruption, provided the key reason for this: “By trade and commerce we grow a rich and powerful nation, and by their decay we are growing poor and impotent.”⁶³⁵ His solution was not a one-sided privileging of the *landed interest* but rather its cooperation with the *moneyed interest*—though he maintained that “the *landed men* are the true owners of our political vessel; the *moneyed men*, as such, are no more than passengers in it.”⁶³⁶ In reality, the direct or indirect involvement of large landowners in capitalist enterprises had progressed⁶³⁷ so far that the most sincere and consistent adherents of *country ideology* were found among relatively weak provincial gentlemen, who, however, could not set the tone at the national level. By contrast, the position of the wealthy noble elite was characterized by a *duality*—practically embodied in the structure of the *joint-stock company*.⁶³⁸ This elite found it easy to profess *country ideology* whenever it suited their interests—namely, to exclude the *moneyed interest*

⁶³¹ 540. Dickinson, *Liberty*, 104 ff., 170 ff.; Holmes, *British Politics*, 148 ff.

⁶³² 541. *Patriot King*, Works, III, 105 f.

⁶³³ 542. *Reflections on the State of the Nation*, Works, III, especially 169, 173.

⁶³⁴ 543. Johnson remarked that commerce dissolved strong family ties, and Boswell nostalgically recalled the *old feudal system*: “there was a reciprocal satisfaction between the Lord and them [the vassals]: he being kind in his authority over them; they being respectful and faithful to him” (*Life of Johnson*, 482, entry from April 9, 1772).

⁶³⁵ 544. *Patriot King*, Works, III, 102.

⁶³⁶ 545. *Reflections on the State of the Nation*, Works, III, 171, 175, 174.

⁶³⁷ 546. Mingay, *Landed Society*, 189 ff.

⁶³⁸ 547. Trevelyan, *Social History*, 409.

from the political leadership of the country, despite their highly profitable economic cooperation with it. For a long time, they largely succeeded in doing so.

The fiction of the continued existence of *societas civilis* and its legal conception largely served as the façade for 18th-century theories of the English constitution. However, a close analysis of the motivations, gaps, and contradictions within this constitutional fiction suggests that a very different constitutional reality lay behind it—one marked by the dissolution of the unity of *King in Parliament*, which was *constitutive* for *societas civilis*, and by the (de facto) implementation of the new concept of Parliament that had already been formulated during the Civil War. As previously indicated, the fiction of the continued existence of *societas civilis* was initially motivated by the fact that the ruling elite had gained power in the struggle against absolutism and its claims to sovereignty. For polemical reasons, they had to counter these claims with the traditional legal conception as well as with the *Whig interpretation of history*—that “political propaganda in historical dress.”⁶³⁹ The use of terms such as *political*, *polity*, *Commonwealth*, or *respublica* in 18th-century England⁶⁴⁰ seemed, at least in part, to justify the maintenance of this fiction; in reality, however, this usage was itself part of the fiction. More revealing in terms of the actual situation is the fact that central themes of the fundamentally accepted *common-law* ideology either faded—such as *immemorial custom*—⁶⁴¹ or were reinterpreted, as in the case of *fundamental law*, which came to be understood in contractualist or natural-law terms⁶⁴² (in the modern sense). Even more significant for our inquiry are the statements concerning the nature and function of Parliament. Here, one must first determine whether *Parliament* refers to the unity of *King, Lords, and Commons*, to the two houses alone, or even just to the House of Commons.⁶⁴³ In cases where the traditional unity is meant, one must further establish which competencies belonged to each of its three components and whether the powers of one effectively neutralized those of another. Such an inquiry is necessary because the polemically indispensable fiction of the 18th-century English constitution prevented the formulation of a theory that would frankly express the actual power relations. Moreover, the ruling oligarchy was never compelled to develop such a theory defensively, as its position remained unchallenged throughout the 18th century. However, the absolutely necessary hints about who actually held power in the state were made; yet, since the oligarchy’s rule faced no direct threat, these hints never crystallized into a coherent theory that might have undermined the politically useful constitutional fiction.

⁶³⁹ 548. Skinner, *History*, especially 176–178.

⁶⁴⁰ 549. See also Stourzh, *Staatsformenlehre*, especially 296–301.

⁶⁴¹ 550. Pocock, *Ancient Constitution*, 229 ff.

⁶⁴² 551. Gough, *Fundamental Law*, 160 ff.

⁶⁴³ 552. See, for example, Burke, *Works*, I, 491; I, 544; cf. phrases such as “*crown and Parliament*” (*Works*, II, 550).

In Blackstone, traditional legal thought—whose invocation effectively serves as the introduction to the constitutional fiction—initially appears in the form of the conviction that human law must be derived from divine and natural law.⁶⁴⁴ However, he then identifies sovereignty with legislation, writing that “*it belongs to the very essence of a law that it be made by a supreme power.*”⁶⁴⁵ This does not contradict the thesis of the divine origin of human law in a formal-logical sense, yet it marks a significant shift in emphasis: whereas in the traditional legal conception, the divinity of law was primarily recognized in the fact that it could neither be created nor fundamentally altered by humans, now the agreement between divine and human law means that those who create or change the law must merely take divine commands into account. How non-binding this was in practice, and how much the affirmation of sovereign legislative authority altered the nature of the relationship between divine and human law, is unmistakably evident in the fact that Blackstone grants the sovereign legislature the right to overturn precisely what the traditional legal conception had sought to preserve intact through the assumption of the divinity of law. Thus, sovereign Parliament can change or remake the rules of royal succession, the established religion, and even the constitution of the country.⁶⁴⁶ Blackstone attempts to maintain the fiction of continuity with tradition, and thus also the constitutional fiction, by citing Coke’s statements on parliamentary sovereignty. However, he fails to recognize that for Coke, Parliament was primarily a *High Court* rather than a legislative body in the modern sense. As a result, not only did the concept of sovereignty mean something different for Coke, but the relationships between the three components of Parliament were also understood in a fundamentally different way. The extent of the difference between Blackstone’s perspective and Coke’s is also evident in the distance with which Blackstone speaks of the long-standing habit of old-school jurists to present new law as merely the “*correct interpretation*” of old law.⁶⁴⁷ Blackstone was aware that a voluntarist intervention lay behind this practice, and he was therefore not readily inclined to accept the notion of a linear, organic development of law without dramatic ruptures in the entire legal system.⁶⁴⁸ His subordination of *common law* to statute, as well as its detachment from the traditional principle of *equity*, point in the same direction.⁶⁴⁹

The concrete political significance of these general deviations from traditional legal thought—while still fundamentally invoking it—becomes clear in Blackstone’s similarly ambiguous treatment of the relationship between the Crown

⁶⁴⁴ 553. *Commentaries, Introduction*, § 2 = I, 38 ff.

⁶⁴⁵ 554. *Ibid.*, p. 46; cf. p. 49: “*by the sovereign power... is meant the making of laws.*”

⁶⁴⁶ 555. *Commentaries*, I, 2 = I, 160 ff.

⁶⁴⁷ 556. *Commentaries, Introduction*, § 3 = I, 70.

⁶⁴⁸ 557. *Ibid.*, p. 64 (cf. § 1 = I, 10).

⁶⁴⁹ 558. *Ibid.*, p. 89, and Allen, *Law*, 433, 427.

and the two houses of Parliament. Here, too, the constitutional fiction is reinforced by appealing to traditional *topoi*, while the constitutional reality shines through the practically decisive reinterpretations or limitations of those *topoi*. Although Blackstone attributes legislative sovereignty to Parliament in the modern sense, he nonetheless maintains the traditional façade—and thus the constitutional fiction—by presenting Parliament as the unity of *King, Lords, and Commons*: “sovereignty is lodged in these three powers together.”⁶⁵⁰ However, since he simultaneously asserts that these three powers are “distinct” and “independent” from one another, the question arises as to the relative weight of each within this unity. Tellingly, Blackstone does not dwell for a moment on the possibility of the King annulling decisions made by the two houses of Parliament through the royal veto (which, incidentally, was last exercised in 1707). By contrast, he considers “the limitation of the king’s prerogative by bounds so certain and notorious, that it is impossible he should ever exceed them” to be a fundamental pillar of the English constitution.⁶⁵¹ Thus, the solemn recognition of the King’s participation in sovereign legislative work implicitly assumes that the royal will, by definition, cannot help but align with that of the two houses of Parliament—even if this assumption leads to the absurd claim that the King would, naturally, have no objection if, for example, the Lords and Commons were to regulate the succession to the throne in a manner unfavorable to his own direct descendants⁶⁵². A conflict between the King and the two houses—an issue that, given both historical and recent experience, should be central to English constitutional theory—is therefore not considered at all, since royal opposition is excluded from the outset. Blackstone appeals to the Germanic-medieval tradition, citing Tacitus and Bracton to support the claim that the King *cannot* rule absolutely (that is, against the will of the two houses of Parliament⁶⁵³). Yet, he fails to recognize the paradox of his own argument: he declares the King an indispensable component of a Parliament endowed with sovereignty in the modern sense, while at the same time binding him to principles that predate the emergence of such a concept of sovereignty. Practically, this results in a very specific demand: in a state governed by the principle of modern sovereignty, the King—as King—should be just as *non-sovereign* as he was before the emergence of the modern sovereignty principle. This, in turn, suppresses the fact that, in earlier times, the absence of royal sovereignty was accompanied by a more or less strong royal prerogative in certain domains. Blackstone is, however, fully aware of the former strength of this prerogative, as he acknowledges the significant weakening of the “powers of the crown” since James I. At the same

⁶⁵⁰ 559. *Commentaries, Introduction*, § 2 = I, 50 ff. On the radical change in the concept of *mixed government* embedded in this formulation, compared to the pre-1688 situation, see Weston, *English Constitutional Theory*, 87 ff.

⁶⁵¹ 560. *Ibid.*, I, 7 = I, 237. Cf. Burke, *Motion relative etc.* (1784) = *Works*, II, 552.

⁶⁵² 561. *Ibid.*, I, 3 = I, 195 ff.

⁶⁵³ 562. *Ibid.*, I, 6 = I, 233 ff.

time—again in an effort to maintain the constitutional fiction—he asserts that the contemporary expansion of the executive would provide the Crown with new power and a new sphere of action.⁶⁵⁴

The analysis of this dual claim provides the key to understanding the central paradox that runs through 18th-century English constitutional theory: it is compelled to defend constitutional reality while simultaneously preserving constitutional fiction. The King (at least as an individual) is not supposed to possess independent sovereign power, yet the Crown (as an institution) must and *must be seen* to play an active role in the sovereign governance of the state. Two questions arise here. What necessitates the nominal defense of royal rights *after* the final defeat of all royal claims to sovereignty? And how can the fiction of the Crown's essential rights be maintained even after the King's prerogatives have been effectively abolished? The first question has already been touched upon when we mentioned the oligarchy's *unpleasant memories* of the radical theories of pure parliamentary or popular sovereignty advanced during the Civil War, along with the corresponding revolutionary practices. As a reaction against this, the political theory of the Restoration period came to be dominated by a monarchist-patriarchal tendency influenced by Filmer, which gradually shaped Tory ideology. The specter of democratic egalitarianism—seen, after the Civil War, as the *inevitable* consequence of abolishing the monarchy—continued to haunt political thought after 1688. It played a negative but decisive role in the oligarchy's commitment to maintaining monarchical government. Although the policies of James II cooled the monarchist enthusiasm of the Restoration era, essential elements of Tory ideology were carried over into the new era and, in a (highly) modified form, were even silently absorbed into the now-dominant political doctrine. The Tories who remained politically active adapted to the new reality by shifting away from rigid monarchism in favor of the formula "*King and the two Houses.*" This both acknowledged the new status of the legislature and rejected popular sovereignty and the right of resistance.⁶⁵⁵ This shift was effective because it met the post-1688 Whig majority *halfway*, as they themselves were increasingly willing to abandon the radical aspects of their own doctrine. Their strong reluctance toward Locke's political theory is characteristic of this moderation. Although contract theory was still occasionally invoked within Whig circles, it was understood more in the sense of Hooker than of Locke—meaning it referred primarily to the *pactum subiectionis* rather than the *pactum societatis*. This interpretation prevented claims to reshape society *ex nihilo* based on the principle of popular sovereignty. This concern is even more evident in the many cases where contract theory was set aside entirely, and the anti-absolutist argument was instead justified by appealing to the *ancient constitution*.⁶⁵⁶ While opposition to *despotism* had been stronger among Whigs than

⁶⁵⁴ 563. *Ibid.*, I, 8 = I, 336 f.

⁶⁵⁵ 564. Dickinson, *Liberty*, 12 ff., 42 ff.

⁶⁵⁶ 565. *Ibid.*, 58 ff., 71 ff., 79 ff.

Tories before 1688, once the threat of absolutism was eliminated, it became necessary to ensure that the pendulum did not swing too far in the opposite direction. Thus, the conditions were in place for the monarchy to be broadly accepted by all sides.

This monarchy could even be *strong*, so long as it was *good*. Translated into the language of political power struggles, this meant, concretely, that the ruling oligarchy was willing to *nominally* vest the Crown with all possible powers—so long as it remained able to *practically* control their exercise and thus wield them according to its own interests. The surest means of achieving this was to ensure that the powers granted to the Crown were not exercised by the monarch himself, but rather by the ruling faction of the oligarchy *in the monarch's name*. As a result, the supposed strengthening of the Crown ultimately translated into a strengthening of the ruling group within the oligarchy. It was through this socio-political dynamic that the *cabinet system* emerged and developed in 18th-century England. This also provides the answer to the second question raised earlier: how could the *fiction* of the Crown's continued authority—or even its strengthening—persist after the *de facto* abolition of royal prerogative in its direct connection to the person of the monarch? The oligarchy's apologists never left any doubt that royal rights only had substance when exercised by ministers. At the time when Burke was fighting "*the violence of Court despotism*"⁶⁵⁷, he summarized the constitutional reality after 1688 as follows: "*Since the revolution ... the influence of the crown had been always in supporting the ministers of the state and in carrying on the public business according to their opinions.*"⁶⁵⁸ The undertone of warning reveals that this was not a mere academic observation, but a polemical statement made in the context of a political struggle. To fully grasp the functioning of the cabinet system—and the necessity of maintaining the fiction of royal rights—it is essential to consider the tensions within the oligarchy itself, particularly the distinction between the ruling oligarchy as a whole and the *dominant faction* within it at any given time. For the *tactical* purposes and political maneuvers of this dominant faction, when seeking to legitimize its actions against rival oligarchic factions, an appeal to the *rights of the King* or to governance *in the name and interest of the Crown* was highly useful. Thus, the *fiction* of royal rights was a *real necessity* within the constitutional reality, because it served as a weapon for the ruling faction of the oligarchy. The *cabinet*, composed of members of this dominant group, could use this weapon to neutralize its opponents in Parliament by invoking the *nature of the constitution itself*. As one astute observer of English politics put it: "*We know that for*

Locke's property theory was received in a way that supported the *landed interest*, while the revolutionary aspect of Locke's reduction of property to labor was, on the contrary, suppressed; see Larkin, *Property*, 107.

⁶⁵⁷ 566. Letter to the Duke of Portland, August 16, 1776 = *Correspondence*, III, 228.

⁶⁵⁸ 567. *Thoughts on the Cause of the Present Discontents* (1770) = *Works*, I, 460

the past century and a half, it has been the practice of English ministers to appeal to the privileges of the House against the Crown, and to the prerogative of the Crown against the House.⁶⁵⁹ All factions within the oligarchy—Tories and Court Whigs alike—defended royal prerogative whenever they believed its exercise in a specific situation would benefit them,⁶⁶⁰ i.e., whenever they felt they controlled the decisive influence in the state. Conversely, when they found themselves deprived of that influence, they launched moralistic critiques, decrying unfair favoritism and corruption. This polemical dynamic explains Bolingbroke's famous *crusade against corruption*. When he demanded the elevation of the Crown above all parties, when he lamented not only despotic tendencies (as in France) but also the *weakness* of a monarch (as in England), and when he called for ministers to be appointed based not on corruption but on patriotism and ability,⁶⁶¹ he was, in reality, advocating for *his own faction* to seize control by strengthening the Crown *at the expense of the ruling group at the time*. His call for a *Patriot King* to end corruption was, in concrete terms, a demand for stripping his opponents of key positions of state power. It was precisely *this* opponent, this "one party," that he accused of "enriching themselves and establishing their dominion under the government and with the favor of a family who were foreigners⁶⁶²." Under the rule of this party, the British government system had "the appearance of an oligarchy: and monarchy is rather hid behind it than shown, rather weakened than strengthened."⁶⁶³ This was an extremely accurate description of the socio-constitutional situation, even though Bolingbroke, from his oppositional standpoint, saw it merely as a *distortion* of the constitution caused by his rivals. Because he belonged to the faction that did *not* control the mechanisms of *corruption* and *influence*, he was forced to articulate his claims in moralistic language—failing to see that *corruption* and *influence* had, in fact, become the essential mode of operation for the oligarchy as a whole. It was no accident, therefore, that George III's failed attempt to free the Crown from the grip of the ruling oligarchic faction ultimately manifested as a struggle to gain control over *patronage* and *influence*.⁶⁶⁴ Burke, at the time, wrote a particularly revealing sentence: "The power of the crown, almost dead and rotten as Prerogative, has grown up anew, with much more strength, and far less odium, under the name of Influence."⁶⁶⁵ However, just as Bolingbroke had done, Burke, as the spokesperson of an opposing faction, had to overlook or conceal the fact that neither prerogative had long been dead, nor was the *influence system* entirely new. *Prerogative* and *influence* had always

⁶⁵⁹ 568. Marx, *Gesammelte Schriften*, II, 159.

⁶⁶⁰ 569. Examples in Dickinson, *Liberty*, 44 ff., 154 f.

⁶⁶¹ 570. *Patriot King*, *Works*, III, 54, 56, 75, 79 ff., 82.

⁶⁶² 571. *On the Spirit of Patriotism*, *Works*, III, 9.

⁶⁶³ 572. *Ibid.*, 18.

⁶⁶⁴ 573. Details in Davis, *Influence*, 32.

⁶⁶⁵ 574. *Thoughts on the Cause...*, *Works*, III, 444.

belonged together—the only difference was that they were no longer in the hands of the Crown itself, but in those of the ruling faction within the oligarchy.

Just as with the prerogative, so too with the so-called separation of powers: taken at face value, it was a fiction.⁶⁶⁶ Yet at the same time, invoking it—or manipulating its application—served the concrete tactical and political needs of the competing factions within the oligarchy. In this sense, even here, constitutional fiction was an integral part of constitutional reality. The struggle between Walpole and Bolingbroke reveals this dynamic. As the leader of the faction that controlled the executive—*i.e.*, that largely commanded *influence* and *patronage*—Walpole defended the clear distinction between the executive and legislative powers, arguing that he sought to preserve the *authority* and *independence* of the Crown (as the holder of the executive) against Parliament. What this meant, given his own de facto control over the Crown, is obvious. But when Bolingbroke, in a tactically shrewd countermove, demanded a *complete* separation of legislative and executive power—precisely in order to make the former autonomous and thus to assert its sovereign rights—Walpole's faction countered that this separation should not be understood in an *absolute* sense. They warned that recognizing the sovereignty of the legislature as *independent* from the executive would inevitably lead to *radical democracy*.⁶⁶⁷ The *plasticity*, indeed the *interchangeability* of arguments and counterarguments is itself a strong indication that this was *not* a conflict over principles—nor a struggle between two fundamentally different parties—but rather an internal contest within a socially dominant class that faced no threat from below. Since there was no external pressure on the oligarchy, its members could freely devote themselves to the pursuit of influential positions and wealth, dividing into competing factions as they vied for power. However, this kind of factionalism implied a fundamental *social, political, and ideological homogeneity*. Thus, not only were constitutional arguments interchangeable or reversible—since they revolved more around the *convenient tactical ambiguities* of the constitution rather than its social and political substance—but even the *party labels themselves* were fluid.⁶⁶⁸ The long-standing reluctance of the oligarchy to use terms like *party* and *opposition*⁶⁶⁹ likely reflects the reality that *English political life at the time could be described without reference to parties at all*.⁶⁷⁰ For in the final analysis—and without any moralizing undertone—*corruption* and *influence* were simply the functional mechanisms of oligarchic rule.⁶⁷¹

⁶⁶⁶ 575. Keir, *Constitutional History*, 295 f.

⁶⁶⁷ 576. Kramnick, *Bolingbroke*, 111, 123 ff., 146 ff.

⁶⁶⁸ 577. On the shifting terminology of *Tory* and *Whig* in the 18th century, see Brewer, *Party Ideology*, esp. 46, 54

⁶⁶⁹ 578. *Ibid.*, 556.

⁶⁷⁰ 579. Namier, *The Structure of Politics*, xi.

⁶⁷¹ 580. For details on the interweaving of social and political *influence*, see Namier, *ibid.*, 16

In this situation—characterized, on the one hand, by the oligarchy's *de facto* exercise of modern sovereign functions and, on the other, by the absence of any absolutist or democratic challenge to its rule—conservative ideology could manifest either in the polemically necessary *fiction* of the continued existence of the *societas civilis* or in occasional outbursts against the *moneyed interest*. These ideological tendencies, which remained fairly vague and superficial during the undisturbed dominance of the oligarchy, began to take sharper form as the pressure from new, rising social groups became palpable. These groups initially sought an expansion of voting and representational rights, drawing inspiration not only from the arguments of the American revolutionaries⁶⁷² but also from a systematic attempt to advance a radical interpretation of the principles of 1688.⁶⁷³ It was precisely in light of this critique that *parliamentary sovereignty* came to be seen as the *modus operandi* of oligarchic rule, to which the idea of *popular sovereignty* could be opposed.⁶⁷⁴ Meanwhile, the oligarchy was compelled to defend *parliamentary sovereignty* precisely in its *opposition* to popular sovereignty. This meant that the oligarchy recognized as *sovereign* only a Parliament whose composition served its interests, and it resisted any substantial expansion of the social forces represented in it. Only by completely misreading the polemical function of these concepts could one assume that the defense of parliamentary sovereignty in the 18th century foreshadowed the kind of development imagined by modern liberal adherents of the *Whig Interpretation of History*. This becomes even clearer when we recall another point in the contemporary debate: the question of the *imperative mandate*. Burke's rejection of the imperative mandate has often been cited as an indication of his *liberal* spirit. His argument was that a representative should stand for the interests of the *entire nation* and should therefore not sacrifice his independent judgment to the private interests of his voters.⁶⁷⁵ However, elsewhere Burke also stated that because Parliament *already* represented the nation, any "*popular origin*" of representatives was entirely superfluous.⁶⁷⁶ This statement reveals the polemical *underpinning* of his rejection of the imperative mandate: Parliament, as an instrument of oligarchic rule, should not be subject to pressure from below. The *preemptive* assertion of its independence from voters was meant to

ff. *passim*, as well as Turberville, *House of Lords*, esp. ch. XVI–XVII.

⁶⁷² 581. Also Brewer, *Party Ideology*, 201 ff.; cf. Ward, *Land Tax*, 123.

⁶⁷³ 582. This explains Burke's polemic against the *New Whigs* (*Appeal...*, *Works*, IV, 120 f.), as well as against those who saw their enthusiasm for the French Revolution as a natural consequence of their commitment to the *Glorious Revolution* (*Reflections...*, *Works*, III, 236).

⁶⁷⁴ 583. Dickinson, *Liberty*, 204, 221 ff., 228.

⁶⁷⁵ 584. *Speech to the Electors of Bristol* (Nov. 3, 1774), *Works*, II, 954.

⁶⁷⁶ 585. *Thoughts on the Cause...*, *Works*, I, 492.

a *limine* block any radical or plebiscitary elements.⁶⁷⁷ In this sense, the rejection of the imperative mandate was directly tied to the oligarchy's mechanisms of rule, and thus it was *not* some groundbreaking theoretical innovation on Burke's part. In fact, it had already been clearly articulated *shortly after 1700*—precisely at the moment when the emerging oligarchy was seeking to *distance* itself from the broader mass of gentlemen. It was repeatedly invoked throughout the 18th century⁶⁷⁸ and even resurfaced among conservative opponents of the *Reform Bill* of 1832.⁶⁷⁹

As the struggle against the *New Whigs* forced the English oligarchy to take its constitutional fictions *seriously*—that is, no longer merely as tools for settling internal disputes that were not truly about fundamental principles or existential matters, but rather as systematic and consistent weapons against an external threat—certain *topoi* emerged that would later prove useful to European conservatism after 1789. It was precisely in this *polemical reactivation* of English constitutional fictions that Burke's critique of the French Revolution was rooted—a critique that would have been unthinkable without the preceding conflict with the *New Whigs*. The key *topoi* of English origin to which conservatives on the Continent turned were primarily the idea of the *organic continuity* of an evolving *societas civilis*, as well as the *notion of the rights of the Crown*. In the latter case, the English fiction had to be taken at *face value*, because the goal was to defend the monarchy against the Revolution *without* allowing royalism to become an outright defense of absolutism. In the next chapter, we will examine how all of this played out in concrete terms.

⁶⁷⁷ 586. Cobban, *Burke*, 60. Cf. Hilger, *Burke*, 138 ff., and especially Schumann, *Burke*, 83. That Burke's *Whiggism* at the time was *not liberalism* was already emphasized by Stahl, *Rechtsphilosophie*, I, §56, esp. 560.

⁶⁷⁸ 587. Dickinson, *Liberty*, 101 ff., 157 ff.; Kramnick, *Bolingbroke*, 173.

Cf. Blackstone's critique of Locke's theory on the dependence of the legislature on the people, *Commentaries*, I, 2 = I, 161.

A rejection of the *imperative mandate* can already be found in Coke, *IV Inst.*, cap. 1, p. 14.

⁶⁷⁹ 588. See, for example, Coleridge, *Table Talk* (March 12, 1833), 1976.

CHAPTER THREE

III. COUNTER-REVOLUTIONARY CONSERVATISM AND THE REFORMULATION OF THE CONCEPTION OF LAW IN THE SOCIETAS CIVILIS AFTER 1789

1. Overview

A complete reconstruction of conservatism after 1789 is only possible if it is understood as a *reformulation* and *further development* of the conception of law in the *societas civilis*, which had itself taken shape since the 16th century in the course of the struggle against absolutism. Since this reformulation and development took place within a fundamentally new *pan-European* context, and simultaneously in several distinct yet interrelated concrete situations, it necessarily assumed multiple forms. However, it is both factually incorrect and analytically unproductive—especially for understanding the thought of individual conservatives—to treat these various forms as *independent*, *typical* currents or even as distinct schools within conservatism.⁶⁸⁰ If one dissects these forms into their fundamental conceptual elements and then compares them, it becomes clear that they generally consist only of *different combinations* of the same components, albeit with varying emphases. Considered as *ideal constructs*, they constantly blend into one another; their shifting contours only gain clarity and precision when viewed against the backdrop of *the fundamental principles of conservatism*, which are our concern here. Thus, what matters above all is a *correct grasp* of the structure and intellectual-historical origins of these fundamental principles. Their simultaneous actualization across multiple concrete situations produced a *wide spectrum* of responses—often in direct opposition to one another. Yet these oppositions primarily concern the *manner* of actualization, reflecting differences in *concrete circumstances* and the *tactical needs* of militant conservatives, rather than indicating the formation of distinct schools *within* conservative ideology.

The *continuity* of conservative thought before and after 1789 becomes readily apparent if we use the foundational principles of the *societas civilis'* conception of law as a guiding thread: Law is *not made* but *exists*. Justice is inherently *distributive* rather than *commutative*. Thus, individual reason, when it rebels against the collective reason embodied in law and associates justice with the equality of all

⁶⁸⁰ 1. Thus, Rowlands (*Das Wesen...*) seeks to distinguish between: a traditional conservatism (*Rehberg*), a romantic conservatism (*Müller*), a utilitarian conservatism (*Gentz*), and a self-interest-driven conservatism.

men before human law—or even identifies the two—falls into *hubris* and *atheism*, thereby fracturing the unity of ethics (or religion) and politics. All of this, in turn, leads to a *categorical rejection* of modern sovereignty and statehood, thereby establishing the decisive socio-political and historical framework. The following analysis will demonstrate that conservatism after 1789 can be reconstructed along this guiding thread and that its additional ideological constructions—whether in anthropology or philosophy of history—are nothing more than *intellectual extrapolations* of older positions within a new context. The *fundamentally new* aspect of the post-1789 situation lies in the fact that the *archenemy*—that is, modern sovereignty and statehood—now appears primarily *not* as *absolutism*, but as *liberal* or *democratic* revolution. While the deep-seated aversion to absolutism persists—and even intensifies to the extent that the revolution is perceived as merely a *continuation* of absolutism by other means—the *paramount* struggle against the revolution pushes this aversion into the background. This shift entails a *new ideological and strategic reassessment* of the monarchical institution. Yet the monarch now stands at the head of an *increasingly developed state apparatus*, and an alliance with him against the revolution—whether *intended or unintended, conscious or unconscious*—means deploying the very instruments of *modern statehood* against those who seek to carry modern sovereign statehood to its *logical and historical conclusion*, that is, those who seek to *destroy the *societas civilis** once and for all. This deployment can be *limited*—remaining within the realm of *reaction* to varying degrees of intensity—or it can culminate in *dictatorship*. Yet even this development is not *entirely* new; rather, it represents the *form* that the *original ambivalence* in the relationship between the *nobility* and the *state*⁶⁸¹ assumes under new conditions. At the same time, however, the *inversion of the hierarchy of enemies* manifests itself in the *difference* between the *exercise of the right to resistance* and *dictatorship*, even though both fall under the broader category of *conservative activism*: *Previously*, the exercise of the right to resistance was an *insurrection* against sovereign statehood *from the position of feudal autonomy*. Now, dictatorship is the *suppression* of revolution *from the position of the (nobility-dominated) state*.

Action and dictatorship did not, however, encompass the full spectrum of aristocratic responses to the revolutionary threat. At the opposite end stood attempts at reconciliation with moderate liberalism—attempts that became all the more serious as the revolution, in its now unstoppable course, transformed into a social revolution of the fourth estate. Between these two poles, countless nuances and combinations can be observed. The problem of alliances, as well as tactical and strategic considerations, grew increasingly important, shaping not only political maneuvers but also ideological adaptations, openings, and retreats. Yet despite these variations, the core conservative principles—rooted in the *societas civilis*' conception of law—remained stable. The apparent diversity of conservative thought, which may obscure the simplicity of these principles to the untrained eye,

⁶⁸¹ 2. See also Chapter II, Section 3a.

did not arise from theoretical innovation but rather from strategic and tactical concerns. These concerns, in turn, can be reduced to a single fundamental question: How far can one go along the path of sovereign statehood or toward liberalism in order to most effectively halt the revolution? Because this question provoked a wide range of answers—and because even the most extreme positions could be bridged through a series of subtle transitions—it was not uncommon for conservative action, originally aimed at specific goals, to produce unintended consequences (*Heterogonie der Zwecke*). These consequences sometimes exceeded not only the framework of the original objectives but even the conservative framework itself. From this perspective, one might perhaps best understand Bismarck's historical role. What concerns us here, however, is primarily the observation that conservative ideological innovations after 1789 arose through engagement with strategic and tactical questions, while the legal principles of the *societas civilis* remained a self-evident ideological constant. As we shall see, this holds even for the grandiose constructions of historical philosophy that formed part of these conservative innovations—such as: The periodization of history in light of restoration efforts; the historical-philosophical interpretation of war as a means of defending the aristocracy's position as the traditionally war-waging class. This once again highlights the limitations of a purely intellectual-historical analysis of conservatism.

As previously noted,⁶⁸² conservative language after 1789 is marked by a far-reaching secularization and modernization, which further obscures the continuity of scholastic-Aristotelian or feudal-Germanic thought structures in both major phases of conservative history. The use of modernized language can partly be explained by the fact that the defense of the *societas civilis* was no longer led primarily by clergymen or jurists, such as Fénelon or Coquille, but increasingly also by modern intellectuals—some of whom had even spent their formative years in various Enlightenment schools. The ambivalent relationship between conservative politicians and “their” intellectuals casts the growing internal tensions within conservatism—as the *societas civilis* disintegrated ever more rapidly—in a different light. This phenomenon, highly symptomatic of the conservative struggle under modern conditions, will require further examination in the final section of this chapter. Yet the conservative break with the language of the *societas civilis*—despite maintaining and defending its core legal principles—is not primarily due to the presence or influence of modern intellectuals in the conservative camp. Instead, it is more directly related to the general dominance of secular expression following the displacement of scholasticism by: Mathematical natural science; the new sciences of man and society. In this sense, conservatism's relationship to the Enlightenment was not only consciously negative but also

⁶⁸² 3. See also Chapter I, Section 1.

contained an unconscious, unintended positive aspect. This duality must therefore be examined alongside the role of conservative intellectuals, within the same analytical framework. The conservative attempt to appropriate Enlightenment language—and, at times, even reinterpret Enlightenment thought—to counteract the liberal and democratic excesses of the Enlightenment represents, in the realm of ideas, a parallel to the political effort to preserve the *societas civilis* (or what remained of it) by deploying the very instruments of modern statehood.

2. The Conservatives' Awareness of Continuity or the Revolution as the Continuation of Absolutism

Our thesis, that counterrevolutionary conservatism is a continuation and reformulation of an ideological and political current that has existed for centuries, corresponds to the conservatives' awareness after 1789 that they were continuing the struggle against a historical aberration that began with modernity. The inner connection of the modern idea of sovereignty with central ideological options of modernity⁶⁸³ did not escape the conservatives, however crudely and distortedly they may have portrayed it; their polemic against the social and political miseries and catastrophes since the 16th century is thus linked to a fundamental rejection of theories and views just as old, which in their eyes initiated or accompanied the social and political errors of the time. All aspects of what has happened in Europe since the 16th century appear to conservatives as a single, fatal unity. "The last three centuries," wrote A. Müller in 1809, "are a time of immense inner revolutions," marked by the pursuit of acquisition and possession, that is, the rise of the bourgeoisie, as well as the dissolution of the "old national community," that is, the formation of modern sovereign states.⁶⁸⁴ The ideological aspect of this same long revolutionary process is described by Fr. Schlegel as "the demonic fall of reason in two stages"; from 1500 to 1650, this tendency triumphed within the Church, from 1650 to 1800 within science.⁶⁸⁵ Here, the spiritual fall into sin is obviously seen in Protestantism, but the revolutionary-republican cult of antiquity around 1800⁶⁸⁶ also had to draw the historical attention of conservatives to another ideological phenomenon of early modernity, namely the revival of paganism in its opposition to Christianity. The dissolution of the Christian-Germanic legal tradition, according to Jarcke, begins with the reactivation of the ancient republican

⁶⁸³ 4. See above, Chapter II, Section 2.

⁶⁸⁴ 5. *Elemente*, XXIII, p. 273.

⁶⁸⁵ 6. *Fragments* (1820) = *Works*, XXII, p. 53.

⁶⁸⁶ 7. Bonald's condemnation of the "*legislateurs sophistes de notre siècle*", who sought their models in the "*barbarie de la législation grecque et romaine*", *Législation Primitive, Discours Préliminaire* = *Œuvres*, I, p. 252.

conception of politics, as represented, for example, by Machiavelli.⁶⁸⁷ According to Radowitz, the revived paganism operated in three forms: an artistic one, oriented toward sensual beauty (Raphael); a political one, which aimed at a break from the “Christian-Germanic foundation” in favor of the ancient ideal of the state (Machiavelli); and finally a metaphysical one, which replaced Christianity with pantheism (Bruno⁶⁸⁸). The connection implied here between religious and political reorientation in early modernity is formulated concisely by Stahl, who states that Machiavelli was “the Spinoza of politics,” since in both, “the same severance from the living God” is evident.⁶⁸⁹ Severance from God, however, automatically means self-exaltation of man, the claim of human reason to autonomy. With Grotius and Descartes, Stahl argues, the principle of subjectivity and the severance from all authority took hold, meaning the complete self-legislation of human reason in theory and of human custom in practice; human reason now considers itself capable of prescribing rules for human behavior.⁶⁹⁰ The sovereign claim to create the state *ex nihilo* based on the prescriptions of human reason is precisely embodied in the theory of the social contract, which, according to the unanimous view of conservatives, belongs to the old and significant ideological precursors of the Revolution.⁶⁹¹

The turn toward the secular, inspired by paganism, and the autonomization of theoretical and practical human reason are thus the two revolutionary hallmarks or stigmas of modernity. Corresponding to them on the socio-political level are the emergence of the bourgeoisie as the class oriented toward the secular—i.e., toward acquisition and possession—and the emergence of absolutism as the institutional embodiment of the claim to found the state on the dictates of sovereign human reason. It is no coincidence, therefore, that the origins of absolutism trace back to the 16th century, when the struggle of the “Romanic principle” against the “Germanic” began, and when the effort emerged to “destroy the patrimonial character of princely rule, the nobility, the peasantry, and the bourgeois corporations.”⁶⁹² For Radowitz, the most important historical manifestations of this effort are the “false theocracy,” which appeared either as Protestant doctrines of authority or, in the Catholic sphere, in the guise of the ‘Byzantinizing’ kingship of Louis XIV; the “soldier regiment” of Frederick William I and the German princes who followed his example; and finally, the “philanthropic state” of Joseph II, Catherine II, or Gustav Adolf III.⁶⁹³ Radowitz also does not fail to express his

⁶⁸⁷ 8. *Collected Writings*, I, p. 129.

⁶⁸⁸ 9. *Fragments*, II = *Selected Writings*, III, p. 75ff.

⁶⁸⁹ 10. *Philosophy of Law*, I, p. 344.

⁶⁹⁰ 11. *At the same place*, pp. 76f.

⁶⁹¹ 12. For a detailed and emphatic discussion, see Haller, *Restauration*, I, 37-168.

⁶⁹² 13. Radowitz, *Fragmente*, I = *Collected Writings* (Ausg. Schr.), II, 209f.

⁶⁹³ 14. *Conversations* (Gespräche), IV = *Collected Writings*, I, 124.

solidarity with pre-revolutionary conservatives, acknowledging with approval the struggles to preserve the “old historical France” during the time of the Fronde and immediately before the Revolution.⁶⁹⁴ Similarly, Jarcke describes the phases of the gradual “implementation of unrestricted government power already since the 16th century, though even more so in the 17th,” and sees its culmination in phenomena such as the “bureaucratic rule of Bonapartism,” the “liberal bureaucratic rule” (even with a king at its head), or liberal constitutionalism.⁶⁹⁵ In his view, the Revolution of 1789 would have been difficult, if not impossible, to carry out “without the prior destruction or undermining of the old estates and legal structures by sovereign power.”⁶⁹⁶ German conservatives often noted with regret that the spirit of the Revolution—one that leveled everything organically grown and tolerated no *puissance intermédiaire*—had “since the mid-17th century also haunted the minds of many German princes.”⁶⁹⁷

For most conservatives, there is no doubt that noble rule in the 17th century, particularly under Richelieu and Louis XIV, was severely tested—indeed, practically abolished. This was already Boulainvilliers’ view,⁶⁹⁸ which, after the Revolution, was further elaborated in an extensive historical retrospective by Montesquieu; this retrospective also deeply influenced the previously mentioned German thinkers. For Montesquieu, there was only ever “*une terre classique de la liberté*,” namely “*la France antique*,” where monarchy and the person of the monarch were not identical, but rather the higher ranks of the social hierarchy participated in the exercise of monarchical power; thus, the monarch was “*une sorte d’individu collectif*.”⁶⁹⁹ Under Louis XIV, a “*révolution totale*” had taken place, dealing far harsher blows to the “*anciennes mœurs*” than the previous ten kings combined. The final result was not merely the disenfranchisement of the nobility but a paradoxical condition that was, in fact, far more explosive. For while the nobility retained its social privileges or even acquired new ones to replace those already lost, these privileges were now opposed to the loss of its political functions—they had thus

⁶⁹⁴ 15. *Fragments* (Fragmente), I = *Collected Writings*, II, 164.

⁶⁹⁵ 16. *Miscellaneous Writings* I, 40ff., 153ff.

Before and after Jarcke, the conservative side has often expressed the view that Bonapartism represents a completion of French absolutism through the means provided by the Revolution. See, for example, Görres, *Europe and the Revolution* (*Europa und die Revolution*) (1821), *Collected Writings* (Ges. Schr.), XIII, 214; *Political Encyclopedia* (*Staatslexikon*), IV, 263; cf. the statements by J. Ringsiers, quoted in Dock, *Sovereignty* (*Souveränität*), 249, as well as E. L. v. Gerlach, *Posthumous Papers* (*Nachlass*), I, 298. See also footnote 363 of this chapter

⁶⁹⁶ 17. *Miscellaneous Writings*, I, 71; cf. I, 39 and III, 537.

⁶⁹⁷ 18. Campe, *Estates of the Realm* (*Landstände*), 207; cf. Jarcke, *Miscellaneous Writings*, III, 281.

⁶⁹⁸ 19. *History* (*Histoire*), III, 136.

⁶⁹⁹ 20. *Monarchy* (*Monarchie*), II, 135, 23.

become decorative or parasitic in nature.⁷⁰⁰ However, Montesquieu anticipates not only this important sociological insight of Tocqueville's famous analysis but also the idea that the events of 1788 and 1789 were the inevitable consequence of a long development. He understands the centralizing and leveling Jacobinism as a continuation and intensification of absolutist policies, arguing that the people "*a moins fait une révolution, qu'il n'a manifesté des révolutions déjà faites*"—⁷⁰¹that is, they had less made a revolution than revealed revolutions that had already taken place. All in all, according to conservative thought, the connection between the absolutist revolution from above and the democratic revolution from below⁷⁰² was firmly established, and it was equally undisputed that, historically speaking, "the revolution initiated from above had the initiative."⁷⁰³ This raised the question of what structural similarities between absolutism and revolution had enabled their historical continuity and interaction. They appeared "identical" in the crucial respect that both constituted "a negation of real and existing rights" in order to replace them with another state of affairs devised by theory.⁷⁰⁴ Both the absolutist princes and the revolting peoples abolished existing rights by appealing to a new authority—namely, the state. Just as the prince oversteps his rightful domain to "usurp" so-called sovereignty, so too does the people exceed its rightful domain, creating popular sovereignty as a revolutionary instrument.⁷⁰⁵ The state now claims "absolute plenitude of power" for itself, meaning the right to override existing rights by invoking the common good, to which everything must submit. Both forms of revolution—liberalism and democracy—share with absolutism this prioritization of the common good, though they differ in that liberalism perceives the common good "more realistically," that is, in material terms, while democracy is more drawn to the other aspect of absolutism, namely "the implementation of the abstract principle of equality" and centralization.⁷⁰⁶ In essence, it makes no difference who advances centralization: as a strengthening of the state so defined and acting in such a manner, it is revolutionary in effect—and sometimes even more revolutionary, because it is more effective when carried out from above.⁷⁰⁷ Thus, centralization is the great common denominator of absolutism and revolution. Louis XIV's dictum *L'État, c'est moi* finds its complement and fulfillment

⁷⁰⁰ 21. *At the same place*, I, 296ff., 304f.; cf. II, 134.

⁷⁰¹ 22. *At the same place*, II, 202, 209ff., 310.

⁷⁰² 23. Thus, E. L. v. Gerlach, *Aufzeichnungen*, I, 120; cf. L. v. Gerlach, *Denkwürdigkeiten*, I, 66, 71.

⁷⁰³ 24. Baader, *Schriften*, 245, note.

⁷⁰⁴ 25. Jarcke, *Miscellaneous Writings*, I, 168.

⁷⁰⁵ 26. Müller, *Von der Notwendigkeit*, 178, 179.

⁷⁰⁶ 27. Radowitz, *Gespräche*, IV = *Ausgewählte Schriften*, I, 116 f.

⁷⁰⁷ 28. Baader, *Schriften*, 246 f.

in Thiers' statement, *La France, c'est Paris*.⁷⁰⁸ Regulation, uniformity, and the elimination of authority vested in individuals are the goal and the ultimate outcome of both absolutist and revolutionary endeavors.⁷⁰⁹ Both are directed against all forms of social orders (*Stände*), so that "the action of the supreme power falls directly upon the individual,⁷¹⁰" and "the government no longer interacts with estates but deals directly with individuals." In its drive to destroy *pouvoirs intermédiaires*, absolutism—this "caricature" of divine right—is, despite all the lessons drawn from the revolution, just as inclined as the revolution itself to introduce universal suffrage, "which deliberately and systematically ignores all distinctions and social structures."⁷¹¹ Here, conservative criticism strikes at the heart of the matter while simultaneously revealing its deeper motivation. Centralization is the direct expression of modern sovereign statehood because it establishes the state's direct authority over all individuals—something made possible only by the abolition of the rule of the *oikos* leaders over their own "people." But once this rule is abolished, no social distinctions or estates remain. Man now appears as an autonomous individual rather than as a member of an *oikos*, and as an individual, he submits to a law that must itself be universally valid (i.e., centralized) since it applies to fundamentally equal individuals. From this follows the logical conclusion that law can be created by all individuals, for instance, if they possess voting rights: centralization and democratization thus go hand in hand. What from the absolutist and revolutionary perspective is praised as the liberation of man from the arbitrary power of the *oikos* leader—through his submission to a universal and impersonal law—appears to conservatives as enslavement: people lose their roots, protection, and stability, and these isolated, inherently weak individuals ultimately become mute subjects of an all-powerful and omnipresent centralized government. The atomization of society and tyranny are closely related in nature and necessarily arise together from the combined effects of absolutism and revolution.

The conviction of the historical and structural kinship, even identity, of absolutism and revolution was commonplace among conservatives in the first half of the 19th century—and in this respect, Tocqueville did nothing more than brilliantly vary an already established theme. Nevertheless, there are certain cases in which this conviction was not explicitly rejected but rather repressed or discreetly omitted. This, however, does not indicate a fundamental change in the conservative stance on this issue but rather reflects polemical and tactical considerations. For instance, French conservatives during the Restoration were compelled to remove dark spots from the image of the pre-revolutionary past since

⁷⁰⁸ 29. Scheel, *Berliner Politisches Wochenblatt*, 79–82.

⁷⁰⁹ 30. On Rehberg's view, see Vogel, *Kritik*, 1406.

⁷¹⁰ 31. Baader, *Schriften*, 390 f.

⁷¹¹ 32. E. L. v. Gerlach, *Nachlass*, I, 36.

it was necessary to refute the politically significant interpretations of that past presented by liberal historiography.⁷¹² The need to avoid conflict and construct a harmonized historical image had already been felt by conservatives earlier, particularly shortly after 1789, when the nobility began to see the crown not as an actual or potential enemy but as an ally in the fight against the Revolution. In Bonald's work, all these interwoven motives result in an almost idyllic portrayal of French history before 1789. Against the liberals, he argued that old France had always possessed a well-functioning "constitution," that the privileges of the nobility were justified by their service to the state, and that social differences could be easily overcome through talent, etc.—in short, justice and *liberté et égalité politique* had prevailed. The relationship between the crown and the nobility is not explicitly discussed, but the reference to the well-functioning constitution is meant to create the impression that there had been no historically significant problems in that regard either.⁷¹³ Just three years after the execution of Louis XVI, Bonald's longing for the monarchy was already so strong that in his major work, he went so far as to condemn the autonomy aspirations of the provinces, to express concerns about the excessive power of the Estates General, and even to endorse the institution of the *intendants*, though he wished for a closer connection between them and local self-government.⁷¹⁴ Louis XIV is also praised—not, however, for his policies toward the nobility, but rather within the framework of a general glorification of France's past grandeur.⁷¹⁵ The pragmatic nature of this idyllic depiction of the *ancien régime*, which omits the consequences of absolutist policies for the nobility, becomes clear when the same Bonald, in other places, argues exactly like those conservatives who insisted on the continuity between absolutism and revolution. He laments the mistakes of monarchs from Francis I to Louis XIV: "*nos rois, entraînés par le torrent des innovations, altèrent l'antique et vénérable esprit de la constitution française*;" Here, the aspects of the social and political disempowerment of the nobility are described according to the familiar schema: the ceding of judicial and military functions to state officials, the abandonment of rural estates for life at court or in cities, luxury, decline, etc.⁷¹⁶

The attempt by certain, particularly French, conservatives to redefine the relationship between king and nobility through a harmonized portrayal of the past, placing it exclusively on a counter-revolutionary basis, did not succeed in displacing the typical conservative view of the continuity between absolutism and revolution. While all conservatives recognized the now-urgent common

⁷¹² 33. Mellon, *Political Uses*, 63 f., 92 f.

⁷¹³ 34. Observations sur l'œuvre de la baronne de Staël..., *Œuvres*, VII, especially 636ff, 639ff, 681ff. See also Maistre, *Considérations sur la France*, VIII.

⁷¹⁴ 35. *Théorie du Pouvoir*, III, 2 (2), 4-5 = *Œuvres*, IV, 285ff.

⁷¹⁵ 36. *Ibid.*, I, 4, 1-2 = *Œuvres*, III, 210ff, 230.

⁷¹⁶ 37. *Traité du Ministère Public*, V-VII = *Œuvres*, II, 130, 132, 134ff.

counter-revolutionary task of the king and nobility, proposals like Bonald's were met with outright rejection, especially in Germany. Fr. Schlegel described the hymns of French *ultras* for Louis XIV as "*a remarkable example of the current confusion and vagueness of concepts,*" and pointed out once again that "*the same destructive principles... are represented by entirely opposing parties*" and can be "*found just as much in many of the most legitimate governments.*"⁷¹⁷ Baader, too, in a polemical attack against the French *ultra-royalists*, reminded them of the common roots of Louis XIV's monarchy with both the Enlightenment and Jacobinism.⁷¹⁸ However, it must be noted that the conservative camp as a whole, despite its recognition of the continuity between absolutism and revolution and its condemnation of *ultraism*, was under pressure—if not to embellish the absolutist past, then at least to manage the difficult present using *absolutist means*. Thus, even the rejection of pre-revolutionary absolutism could, at least in a polemical-propagandistic sense, serve to demonstrate the anti-absolutist and therefore tyranny-free convictions of those who, to some extent, had to employ *ultraist* methods. After all, even those conservatives who upheld the idea of the continuity between absolutism and revolution devised dictatorial plans.⁷¹⁹

3. Law, Sovereignty, and State Power in Conservative Thought After 1789

a. The Rejection of the Constructability of Law and Its Implications

Apart from the subjective conviction of conservatives after 1789 that they were essentially continuing a struggle that had begun with the dawn of modernity, the objective-structural proof of their theories' origin in the legal conception of the *societas civilis* lies in the fact that they revolve around the fundamental principle of this legal conception as if around an ideal axis—indeed, that they can be logically deduced from it with complete coherence. As we know, that principle states the following: law is not made, but *is*—and it exists as a component, expression, and emanation of an immutable divine-natural order. Humanity, inherently bound to this same order, is therefore incapable of creating law at will, and any such attempt would amount to an ungodly endeavor, doomed from the outset, to overturn the order of being. In this sense, Bonald writes that man can no more give a constitution to society than he can give weight to a body or extension to matter, for constitutions are *nécessaires dans l'acception métaphysique de cette expression*—that is,

⁷¹⁷ 38. *Signatur des Zeitalters*, Werke, VII, 551, 495, 513ff, 524. Schlegel himself had, as much as possible, sought to conceal the pre-revolutionary conflicts between absolutism and the nobility in favor of a politically expedient harmonizing portrayal in his lectures on modern history delivered at the Viennese court in 1810. See *Werke*, VII, 372.

⁷¹⁸ 39. *Schriften*, 238ff.

⁷¹⁹ 40. See also Section 3d of this chapter.

any alteration of them would throw nature into disarray.⁷²⁰ If laws, as Bonald follows Montesquieu in assuming, are *rappports nécessaires qui dérivent de la nature des choses*, then every *pouvoir législatif* becomes superfluous—not only concerning the *lois fondamentales*, but also the *lois civiles*. Nature acts as an invisible legislator, either by bringing customs to life, which gradually attain *force de loi*, or by placing obstacles in the way of bad human laws, thus forcing their correction.⁷²¹ A *loi nécessaire* contains the *volonté générale*, which follows the commands of the natural order and thereby distinguishes itself from the *volonté dépravée et particulière de l'homme*.⁷²² Here, Bonald deliberately employs Rousseau's formula polemically, setting the good *volonté générale* against the bad one, and using the concept of *volonté générale* precisely to eliminate all legislative voluntarism. Only a degenerate will could desire something arbitrary and indulge in the self-satisfied delusion of having discovered something radically new in the art of government that must now be put into practice. If law and legitimate constitution are anchored in the divine-natural order, then, as Burke writes, in government as in morality, there is nothing essentially new to be discovered.⁷²³ The best and highest that human wisdom can achieve under these circumstances is to make sensible use of what nature has already provided; to create something *ex nihilo* exceeds its power.⁷²⁴ In this sense, an anonymous conservative also stated: "It is not the emergence and existence of all things in life and the state that depends on the will of man, but only their use—and this must conform to revealed truth and revealed law".⁷²⁵ De Maistre formulated the same thought even more epigrammatically: *L'homme peut tout modifier dans la sphère de son activité, mais il ne crée rien*.⁷²⁶

If no constitution and no great institution owes its origin to rational deliberation and sovereign will,⁷²⁷ then in what can the work of good legislators consist? According to de Maistre, they act *par instinct et par impulsion* and do nothing more and nothing other than collecting and organizing what is already present in custom and the character of the people.⁷²⁸ Law, therefore, is not the creation of new conditions but the formulation of the existing condition in the form of prohibitions and commands. Since the divine-natural order, which also encompasses the law, is by definition singular and unchangeable, there can be no

⁷²⁰ 41. *Théorie du Pouvoir*, Préface = *Oeuvres*, III, 9.

⁷²¹ 42. *Ibid.*, I, 6, 3 = *Œuvres*, III, esp. 316f., 327.

⁷²² 43. *Ibid.*, I, 1, 3 = *Œuvres*, III, esp. 47.

⁷²³ 44. *Reflections*, Works, III, 345.

⁷²⁴ 45. *Ibid.*, 441.

⁷²⁵ 46. Spanie, 264

⁷²⁶ 47. *Considérations*, VII = *Œuvres*, Sp. 47.

⁷²⁷ 48. *Ibid.*; cf. VII, Sp. 54; cf. Bonald, *Théorie du Pouvoir*, I, 12 and 13 = *Œuvres*, III, 114, 116.

⁷²⁸ 49. *Ibid.*, Sp. 49.

conceivable case in which new legislation could significantly deviate from pre-existing law. On the contrary, any necessary new legislation must also reaffirm the fundamental principles upon which every human community must rest—thus, it must connect to the law and master newly arisen situations through its invocation. In other words, legislative voluntarism is only fully avoided when law is recognized as the sole valid framework within which legislative solutions to previously unknown questions must take place. This directly recalls the medieval conception that new (positive) law should only appear as an interpretation of traditionally valid legal principles. The direct influence of legal theorists from the *societas civilis* on this crucial point can, incidentally, be clearly demonstrated in Burke, who primarily has Coke in mind when he opposes the voluntarist-revolutionary conception of legislation by asserting the organic continuity of *common law*—“not changing the substance, but regulating the mode”.

⁷²⁹ Although this statement referred to specifically English law, it was not a specifically English notion arising from the “peculiarities” of English development, but rather a self-evident tenet of the legal conception of the *societas civilis* as a whole. From this standpoint, Marwitz, for example, argues against Hardenberg’s reform plans. Following the usual conservative reminder that in matters of constitution, “*nothing can be invented, nothing can be made, and nothing can be instituted from the outset,*” he explains his view on what must be done in a situation where the existing (positive) law admittedly can no longer fully encompass reality: in such a case, the traditional constitution must be “brought to light again, revitalized, and something better tied to it.”⁷³⁰ Thus, the foundation of legal development is not the creation of new principles but rather the renewed inquiry into the deeper meaning of the inherited ones and an interpretation of them that meets the present circumstances. The development of (positive) law, therefore, essentially means a reaffirmation of (divine-natural) law in its substance.

The conservatives sought to reinforce the impossibility and inviolability of law by emphasizing its fundamental distinction from legislation. As Radowitz observed, the concept of “law” had always referred to what is divinely given and “independent of external arbitrariness,” whereas “legislation” indicated that which is “established by human beings.” The essential difference between the traditional and the revolutionary conception lay in the fact that, “according to the old notions of the state... the law was merely the articulated expression of justice” and, as such, not only implied “physical obligation” but also “obedience for God’s sake.” By

⁷²⁹ 50. *Reflections, Works*, III, 258. The influence of the French *coutumiers*, Coke, and Hale on Burke’s thought has already been briefly noted by Pocock (*Anc. Const.*, 173, 242f.). On the aspect of interest here, see Scheel, *Engl. Rechtsdenken*, 103f., cf. 51f. Burke frequently refers to Coke, even from his early years; see, for example, *Works*, I, 5f.; IV, 292; VII, 66. His famous and much-commented remarks on *natural and artificial reason* are essentially a paraphrase of Coke’s related theses; see above, Chapter II, Section 4d.

⁷³⁰ 51. II, 1, 316, cf. 326

contrast, in the doctrines of “revolutionary political science,” legislation was purely human and derived from “so-called general utility.” Thus, the old bond between law and justice was severed, replaced by an equation of law with legislation that typified both despotic and democratic states.⁷³¹ Earlier, Haller had lamented that the term *lex* or *loi* no longer meant “the universal natural (divine) law” but had been degraded to refer to “all human ordinances, prescriptions, and commands.”⁷³² Since this degradation had already taken place, its political and linguistic consequence for conservatives was clear: “The law, the eternal, unwritten... is to be clearly distinguished from legislation.”⁷³³ This distinction placed particular emphasis on the aspect of enactment—that is, on the purely human character of legislation as opposed to the non-constructability and divine origin of law. In practical terms, this meant that even laws crafted according to the principles of revolutionary natural rights and popular sovereignty could never, under any circumstances, abolish (divine) law. “The *volontés réunies*,” wrote de Maistre, “forment le réglement et non la loi”—⁷³⁴evidently because they rely solely on human power and lack divine legitimacy. For legitimacy is aligned with divine will, whereas human will can establish nothing beyond legality. The reverence for the term “law” was thus a symptom of a society’s descent from legitimacy to legality, from the organic to the voluntaristic.⁷³⁵ Beyond this contrast between legitimacy and legality, conservatives also undermined the status of legislation by emphasizing the deeper *racines des constitutions politiques*—the unwritten customs and manners—over formally codified laws.⁷³⁶

In the conservative perspective, law not only possesses a specific essence rooted in divine-natural order, but also a distinct content that clarifies its ontological significance for social relations of power. This content was encapsulated in the conservative concept of justice, which, like the concept of law, was directly inherited from the ideological arsenal of the *societas civilis*. Justice was conceived in the Aristotelian-Scholastic sense of *justitia distributiva*, meaning “to

⁷³¹ 52. Fragments, I = *Collected Writings*, II, 174, 200, 264.

⁷³² 53. Restoration, II, 67, note 4, 177. See Miller’s argument against the contemporary tendency to make a fundamental distinction between positive and natural law, *Elements*, VI = p. 80.

⁷³³ 54. Schlegel, Fragments... (1820) = *Works*, XXII, 50.

⁷³⁴ 55. Essay on the Generative Principle..., II = *Collected Works*, p. 111.

⁷³⁵ 56. Bonald, Thoughts, *Collected Works*, VI, 101. Similarly, Jarcke, *Miscellaneous Writings*, III, 1146.

⁷³⁶ 57. See the corresponding passages in de Maistre, *Essay on the Generative Principle...*, IX = *Collected Works*, p. 116;

Jarcke, *Miscellaneous Writings*, III, 74ff;

Burke, *Letters on a Regicide Peace*, I = *Works*, V, 310.

each their own.⁷³⁷ As we have already discussed,⁷³⁸ this conception of justice stood fundamentally opposed to the universalist notion of equality derived from modern natural rights, as it inherently implied a necessary connection between rights and privileges. The revolutionary experience compelled conservatives to reassert this connection, and even in 1789, Montlosier observed that *équité* and *égalité* were being mistakenly conflated.⁷³⁹ For conservatives, however, equality could mean nothing other than the equal subjection of all to laws that sanctioned existing inequalities.⁷⁴⁰ And if they opposed the modern state—regardless of the form it took—it was above all because the modern state was inherently bound to a conception of equality and justice that was fundamentally different from their own. The “omnipotence of the absolute state” and the idea of “welfare” as the highest purpose of the state were in obvious contradiction with the conservative conception of justice: the former because it sought to level all subjects (and their rights), and the latter because welfare for all required the participation of all in certain rights that had previously been denied to many. Not coincidentally, the conservative notion of justice was defended specifically against state absolutism and the doctrine of welfare, with the claim that “inequality is the constant companion of true freedom.”⁷⁴¹ The incompatibility of freedom and equality became a key conservative theme,⁷⁴² particularly in opposition to demands for equality before the law. Jarcke denounced this kind of equality as a “caricature” of the Christian doctrine of the equality of all men before God, countering it with the concept of *justitia distributiva*, which did not exclude the “natural inequality of rights.” Elsewhere, he identified this unequal equality with freedom itself, which in turn coincided with the “unimpaired state of law.” He also reminded his readers that this freedom, being inseparable from the enjoyment of unequal rights, had always consisted in particular liberties, privileges, and rights. The transformation of these specific liberties into an abstract, universal “freedom” would inevitably lead to the death of true liberty.⁷⁴³ If revolutionary freedom was at least egalitarian in the sense that it sought the abolition of privileges and legal equality, conservative freedom, by contrast, had to be closely tied to the rejection of such equality and to the principle of *justitia distributiva*.

⁷³⁷ 58. Typical formulations in Haller, *Restoration*, II, 378; Marwitz, II, 2, 309, 311; Radowitz, Fragments, I = *Collected Writings*, II, 174; cf. Maser, *Works*, IX, 335.

⁷³⁸ 59. See also Chapter II, Section 2.

⁷³⁹ 60. Monarchy, II, 240.

⁷⁴⁰ 61. See Moulinié, *Bonald*, 351.

⁷⁴¹ 62. The entire argument in Radowitz, Fragments, I = *Collected Writings*, II, 234, 243, 287.

⁷⁴² 63. See, for example, Müller, *Elements*, VII = p. 95

⁷⁴³ 64. Miscellaneous Writings, III, 131; I, 139, 140, 115, 116, 25.

In light of the assertion that *justitia distributiva* constitutes the essence of law, it becomes clear what conservatives concretely mean when they affirm the divinity of law with an almost existential seriousness:⁷⁴⁴ they mean that every existing “individual right” or privilege is “divine law,” “because it is divine will and command to hold the property and rights of others sacred”—⁷⁴⁵and they mean this from the perspective of those who *possess* these so-called divine rights. The divinity of law is thus meant not only to protect existing property and privilege but also to safeguard the authority whose primary task is precisely to administer justice, that is, to ensure the strict observance of the principle *suum cuique* (“to each his own”)⁷⁴⁶. If authority is by its very nature “an office of divine law,”⁷⁴⁷ then respect for the law must manifest as respect for authority. Respect for authority is thus as inseparable from respect for divine law as the inability of man to create law for himself; the renunciation of sovereign legislation in recognition of the divinity of law and the unquestioning submission to authority are two sides of the same coin. Unable to establish the order of being—or the order of law—through his own powers, man can only partake in it by obeying divinely ordained authority.⁷⁴⁸ “Enemies of the authority instituted by God” are, accordingly, those who forget or deny man’s inability to create law, and who, by declaring man the supreme legislator and judge, “deify humanity.”⁷⁴⁹

Here, then, is the polemical thrust of the doctrine of the divinity—that is, the *non-constructability*—of law: it is directed against those who create new, man-made law and, in doing so, threaten the privileges, property, and authority that conservatives believe to be under the protection of divine law. The “fundamental evil” of the time, namely the “near-total lack of respect and reverence for law,”⁷⁵⁰ is therefore attributed to the fateful, yet historically potent, presence of individuals who equate⁷⁵¹ their own will with law and who seek to construct the commonwealth from scratch, disregarding its historical rootedness.⁷⁵² Voluntarism must necessarily increase in proportion to the decline or questioning of the divinity

⁷⁴⁴ 65. See, for example, the emphatic formulations of E. L. v. Gerlach, *Notes*, I, 234, 255, 358.

Cf. the remarks of Wilhelm v. Gerlach, cited in Scheel, *Berlin Political Weekly*.

⁷⁴⁵ 66. Thus Jarcke, *Miscellaneous Writings*, I, 28; cf. III, 70.

⁷⁴⁶ 67. See, for example, Radowitz, *Fragments*, I = *Collected Writings*, II, 268; Jarcke, *ibid.*, III, 84.

⁷⁴⁷ 68. E. L. v. Gerlach, *Posthumous Papers*, II, 778.

⁷⁴⁸ 69. Cf. *State Lexicon*, III, 111-122 (entry: *Authority*).

⁷⁴⁹ 70. Thus Leop. v. Gerlach in a letter to E. L. v. Gerlach dated April 16, 1848 = *Posthumous Papers*, II, 506.

⁷⁵⁰ 71. Jarcke, *Miscellaneous Writings*, I, 168.

⁷⁵¹ 72. Burke, *Letters on a Regicidal Peace*, I = *Works*, V, 267.

⁷⁵² 73. Burke, *Reflections*, *Works*, III, 278.

of law—that is, in proportion to the extent to which the determination of human will by supra-human factors is lost from view. “The more they descend into the realm of absolute will... the more demonic they become.”⁷⁵³ In the end, this voluntarism can only justify itself by invoking the general will and the collective judgment of those who are willing to submit to purely human law. In this sense, the rejection of divine law inevitably entails the emergence of popular sovereignty as its necessary, if not immediately obvious, consequence.⁷⁵⁴ Leaving aside the narrower constitutional implications, the declaration of the general will as the ultimate legitimating authority is inseparably linked to the *collective deification of humanity*—that is, to the deification of mankind as a collective. Baader captured the structural parallel between popular sovereignty and the divinization of man in the following words: “Essentially, the doctrine of autonomy or of the absolute sovereignty of man is merely a copy of the doctrine of popular sovereignty, and according to it, man is free just as every individual citizen is free under the latter—because he has no one above him, and because he is equal to all others, since each has an equal share in this sovereignty.”⁷⁵⁵ Thus, the conservative critique of those who deny divine law once again leads to a critique of modernity itself. “For the last three centuries, the pride of modern man has stirred—the pride that seeks to *make* history rather than humbly accepting it,” wrote Friedrich Schlegel.⁷⁵⁶ And A. Müller traced “the later delusion of the sovereignty of princes and peoples” back to “the delusion of a certain sovereignty of man,” which, he argued, had been spreading for three centuries.⁷⁵⁷ By 1800, it was already a commonplace among conservative ideologues that rebellion against God—manifest in the claim of human sovereignty over law—was both the *prerequisite* and the *culmination* of rebellion against traditional law and authority.⁷⁵⁸ The logical conclusion, then, was that revolution—unlike a mere *revolt*, which only aims at “the violent replacement of rulers”—⁷⁵⁹ was fundamentally a *religious* phenomenon. That is, it was a movement that sought not only to overturn the political order of the *societas civilis* but also to destroy the very metaphysical beliefs that governed human behavior within it. This, in turn, explained the *orgueil des doctrines* (the arrogance of doctrines) and the struggle for *domination sur les esprits* (domination over minds) that characterized the revolutionary era just as much as the time of the religious

⁷⁵³ 74. Schlegel, *Fragments* (1821) = *Works*, XXII, 74.

⁷⁵⁴ 75. Radowitz, *Fragments*, I = *Collected Writings*, II, 273ff; *Conversations*, IV = *Collected Writings*, I, 123.

⁷⁵⁵ 76. *Remarks*, 455.

⁷⁵⁶ 77. *Philosophy of History*, XVIII = *Works*, IX, 416.

⁷⁵⁷ 78. *On Necessity*, 177.

⁷⁵⁸ 79. See, for example, already Barruel, *Abridged*, II, 403; cf. La Mennais, *Essay*, I, 394.

⁷⁵⁹ 80. Radowitz, *Fragments*, I = *Collected Writings*, I, 1986.

wars.⁷⁶⁰ The spiritual weapon of the Revolution in this battle for the mind was *rationalism*—a term that conservatives often used not in its technical-philosophical sense, but rather to denote a worldview that prioritized the supremacy of man and human reason as the sovereign foundation of an autonomous order. Rationalism, in this sense, was “a construction based on reason and founded on a human basis,⁷⁶¹” a belief in the “sovereignty of reason,⁷⁶²” which was not merely “unbelief in God” but an “anti-belief in man,” a “self-deification of man.⁷⁶³” From this way of thinking, the origins of the Revolution were evident, for it could be defined as “the foundation of the entire public order upon the will of man rather than upon divine order and providence.⁷⁶⁴”

These are the final socio-political and ideological implications of the thesis on the divinity and thus the immutability of law. It is not difficult to see that the conservatives could only arrive at these implications through a logical leap. For them, it was a given that they possessed the monopoly on interpreting divine will, and consequently, the mere assumption of the divinity of law had to result in the endorsement of the conservative definition of the content of that very law. For obvious existential reasons, they were unwilling to acknowledge that the divinity of law was not self-evident in itself but could only be proven through a (human) act of interpretation, which in turn would demonstrate what they sought to prove. In this sense, God, whose omnipotence was put to the test, was treated no less sovereignly by His own believers than reason was by its revolutionary adherents. This established the fundamental question: at what point should the revolutionaries believe in a God, and on which side should He stand? By demanding the general submission to divine will while simultaneously presenting themselves as the legitimate interpreters of divine will, the conservatives were, in essence, requiring their enemies to perceive themselves as the conservatives saw them—namely, as those who represented divine will, inherently aligned with it, and thus belonging to the ruling group, which claimed to embody these divine conceptions. However, the absolute claim to rule consists precisely in imposing on the enemy the demand that they adopt this self-perception.⁷⁶⁵

⁷⁶⁰ 81. Bonald, *Observations, Collected Works*, VII, 669, 621.

⁷⁶¹ 82. Radowitz, *Fragments*, I = *Collected Writings*, II, 158ff.

⁷⁶² 83. Jarcke, *Miscellaneous Writings*, III, 3.

⁷⁶³ 84. Stahl, *Was ist die Revolution? = Parlamentarische Reden*, 240.

⁷⁶⁴ 85. *Ibid.*, 234; cf. *Partein*, 66.

⁷⁶⁵ 86. A characteristic example in this regard is the argumentation of the early La Mennais in support of ecclesiastical authority. After deriving the necessity of authority from the weakness of human reason, etc., he poses the question of how the true holder of authority is to be identified. The answer comes easily to him: it is enough to look around to discover, “*s’il existe une société spirituelle et visible qui déclare qu’elle possède cette autorité*” (*Essai*, II, 204; emphasis mine). This *société* would thus be the only one with the right to expect that its self-understanding be taken at its nominal value, i.e., in its case, self-understanding and

Despite all logical gaps and leaps, the conservatives had to maintain their position that God and the divinity of law were indispensable, as they were the heirs of the *societas civilis* ideology. Moreover, there was an additional reason for this stance. Any historical derivation of law would ultimately lead to positivist conclusions, in which they had no interest. This danger becomes apparent in the rare cases where conservatives resorted to historical auxiliary constructions to explain the emergence of property or sovereignty rights. In such instances, their argument ran as follows: even if property and sovereignty rights had originated in unlawful usurpation and injustice, over time, injustice transformed into law as those who initially committed the injustice passed it down to their descendants, gradually establishing the legitimacy of the existing legal order, which could no longer be contested. In this way, the question of law was no longer framed in terms of the justification of original rights but rather in terms of affirming the status quo. By this logic, even revolutionary violations of existing rights could, over time, acquire legitimacy—⁷⁶⁶provided that the violation had occurred long enough ago and that the victorious revolution was both willing and capable of consolidating its new order. The question, then, was whether a revolutionary violation of rights had happened recently or long enough in the past for it to be considered legitimate. If the latter, it remained to be seen whether the victorious revolution was capable of enduring and asserting itself. Faced with such obvious implications, conservatives refrained from pursuing this argumentative direction any further. Likewise, little interest or approval was given to the explanation that the principle “*To each his own*” applied absolutely, but that what counted as “one’s own” could “only be judged according to the legal consciousness of a particular time and a particular people”—even though this explanation was meant to reinforce the thesis that historical law was no more arbitrary than divine law.⁷⁶⁷ The ways of God remained the traditional conservative domain, whereas history, as the realm of human affairs, was open to competing claims of authority and interpretation from other perspectives. Thus, it seemed far safer to adhere to familiar paths and lines of thought, even though conservative thinking after 1789 could not avoid making certain concessions to the now predominantly prevailing Enlightenment terminology and discourse.⁷⁶⁸

b. The Rejection of the Modern Concept of Sovereignty and the Question of the Separation of Powers

The rejection of the modern concept of sovereignty by conservatives follows

objective function would coincide.

⁷⁶⁶ 87. So Haller, *Restauration*, II, 576, 580 f.; following him, Jarcke, *Verm. Schriften*, III, 112 f.; Radowitz, *Fragmente*, I = *Ausg. Schriften*, II, 220 f.; E. L. v. Gerlach, *Nachlaß*, I, 33.

⁷⁶⁷ 88. Radowitz, *Fragmente*, I = *Ausg. Schriften*, II, 267.

⁷⁶⁸ 89. See Section 8 of this chapter.

logically from their insistence on the immutability of law. For them, the very idea of sovereignty was inseparably linked to the notion that law was the product of a sovereign, concretely locatable will, which, as the creator of law, was itself exempt from subjugation to it. However, conservatives not only rejected the modern idea of sovereignty implicitly; they also did so explicitly, which was to be expected given the sensitivity of the issue. Among conservatives, it was commonly recognized that there existed a specifically modern “concept of sovereign state power,” which had taken shape—particularly in the effort to pacify the state during the religious wars—and had since prevailed.⁷⁶⁹ To this “absolute” concept, they opposed their own “relative” notion of sovereignty,⁷⁷⁰ linking this contrast to their broader opposition between divine and human law, between fear of God and hubris. As Bonald put it: “*Ces deux systèmes sur la souveraineté dans la société correspondent parfaitement à deux systèmes sur la souveraineté de l’homme sur lui-même ou sur sa raison: les uns ne donnent d’autre règle à sa raison que sa raison même; les autres lui donnent, dans une loi divine, une règle supérieure à sa raison.*”⁷⁷¹ What disturbed Bonald most about the modern concept of sovereignty was the notion that mere will or mere authority sufficed to create valid positive law—that is, that an earthly sovereign, relying solely on his own power, could *make* law without having *right* to do so: “*L’autorité des hommes n’a pas besoin d’avoir raison pour valider leurs actes politiques.*”⁷⁷² In opposition to this, Bonald sought to prove the existence of God in order to deduce from it the duty of the earthly sovereign to obey the commands of the heavenly and true Sovereign.

However, this unambiguous subordination of earthly rule to the divine results in an abstraction or even dissolution of the very idea of sovereignty—an outcome entirely in line with the legal philosophy of the *societas civilis*. The concern for securing the divinity of law remains so paramount that no earthly source of sovereignty can be concretely identified, and sovereignty itself dissolves from any specific bearer. Thus, Bonald asserts that in a *société constituée*, sovereignty belongs to the *volonté générale* or to *nature*, while the monarch or government merely holds the office of *minister* of that sovereignty.⁷⁷³ A fundamental distinction is thus drawn between *souverain* and *pouvoir*—a distinction which, according to Bonald, is only respected by those who recognize God as sovereign and leave mere *pouvoir* to humans. By contrast, he argues, those who advocate a godless theory of sovereignty—such as Rousseau—blur the line between sovereignty and

⁷⁶⁹ 90. Schlegel, *Fragmente* (1826) = *Werke*, XXII, 232 f.

⁷⁷⁰ 91. *Op. cit.*, 3.

⁷⁷¹ 92. *De la Souveraineté*, II = *Œuvres*, I, 31.

⁷⁷² 93. *Op. cit.*, 32.

⁷⁷³ 94. *Théorie du Pouvoir*, I, 6, 3 = *Œuvres*, III, 329. The meaning of the formula *volonté générale* in Bonald was explained in the previous section.

government, ultimately depriving the latter of legitimacy.⁷⁷⁴ The thesis that sovereignty is inherently distinct from government and serves as the necessary source of its legitimacy is, of course, a direct refutation of the voluntaristic-activist conception of sovereignty, which holds that actual and complete exercise of government power is constitutive of sovereignty. Bonald's reasoning proceeds directly from the legal tradition of the *societas civilis*, which denies the very existence of modern sovereignty. Precisely because of this framework, Bonald never feels compelled to ask who, if not the government itself, could form the legitimizing bridge between sovereignty and government—since answering this question would necessarily render government sovereign. Similarly, A. Müller, adhering to the same legal tradition, avoids any concrete localization of sovereignty when he asserts, in a characteristically laconic manner, that neither the law, which is merely a dead letter, nor the mutable and fallible earthly sovereign, can or should rule: “*The idea of law alone may compel.*”⁷⁷⁵ By placing the sovereign under the aegis of an almighty and binding (divine) legal order, he ceases to be “the one who stands at the center and seems to wield power,” and instead becomes “the very idea of that great bond which the people express and which they bear within them in its entirety, from their highest ranks down to their smallest elements; that striving, compelling force of all members of the people and of all past and future generations toward the center, etc., etc.”⁷⁷⁶ In this way, sovereignty is literally dissolved into thin air—but this is precisely the point. As we must emphasize again, this argument is rooted in the traditional legal philosophy that does not and cannot recognize modern sovereignty. For, if law is divine, then the legislator cannot be the unchecked bearer of ruling will, but must be, *κατ’ ἐξοχήν* the father.⁷⁷⁷

The dependence of the conservative rejection of the modern concept of sovereignty after 1789 on the ideas of the *societas civilis* is evident even in their linguistic usage. Thus, Bonald renews the old distinction⁷⁷⁸ between *pouvoir absolu* and *pouvoir arbitraire* and defines as an essential characteristic of absolute rule the respect for the *lois fondamentales*, which, however, is absent in arbitrary rule, which nonetheless employs legal (i.e., not legitimate) means to destroy the *lois fondamentales*; arbitrary rule can never be absolute, “*puisque sa volonté est sans règle*”.

⁷⁷⁹ This subjugation of absolute power to certain rules means that, as its

⁷⁷⁴ 95. *De la Souveraineté*, III = *Œuvres*, I, 51.

⁷⁷⁵ 96. *Elements*, III = p. 36.

⁷⁷⁶ 97. *Ibid.*, VII = p. 92.

⁷⁷⁷ 98. Schlegel, *Fragments* (1823) = *Works*, XXII, 129.

⁷⁷⁸ 99. See also Chapter II, Section 3b.

⁷⁷⁹ 100. *Pensées*, *Oeuvres*, VI, 188; *Démonstration Philosophique*, VII = *Oeuvres* VII, 64; *Observations...*, *Oeuvres*, VII, 653f.

Naturally, conservatives also know and use the adjective *absolute* to denote modern

competencies are limited, it remains unrestricted, that is, absolute, within the boundaries set by the *lois fondamentales* or by divine law. But it was precisely in this that the traditional conception of sovereignty consisted, to which conservatives remained faithful even after 1789. Let us recall an important passage from de Maistre, which begins with the thesis that sovereignty is only “*dans son exercice légitime*” unlimited. De Maistre then continues: “*Car on peut dire également, sous deux points de vue différents, que toute souveraineté est limitée, et que nulle souveraineté n’est limitée. Elle est limitée, en ce que nulle souveraineté ne peut tout; elle ne l’est pas, en ce que dans son cercle de légitimité, tracé par les lois fondamentales de chaque pays, elle est toujours et partout absolue.*”⁷⁸⁰ Based on this definition of *souveraineté* and *absolu*, de Maistre designates sovereignty as “*infaillible*” and government as “*absolu*”, by which he means that there is no higher instance to which appeal can be made against them, and that their decisions must be carried out without hesitation and without recourse to the right of resistance.⁷⁸¹ However, he does not mean that the source of these decisions is the will of the sovereign. The distinction is fundamental and marks the boundary between the traditional and the modern concept of sovereignty. The extent to which de Maistre remains committed to the former is evident in his principal political concern, which does not lie in strengthening the sovereignty of the government but rather in answering the question: “*comment on peut restreindre le pouvoir souverain sans le détruire.*”⁷⁸² Since, after the experiences of 1788 and 1789, the now revolutionarily reinterpreted right of resistance could no longer be invoked, de Maistre sought to limit secular sovereign power by restoring the Pope to his medieval rights, a goal he emphasized by accusing contemporary constitutionalists of failing to recognize the connection between their own demands and the wise medieval practice of limiting sovereign power.⁷⁸³ But even papal power, according to de Maistre, can and must not be sovereign in the modern sense: the ecclesiastical regime may be monarchical, “*mais suffisamment tempéré d’aristocratie, pour qu’il soit le meilleur et le plus parfait des gouvernements*”, for “*le gouvernement monarchique tempéré vaut mieux que la monarchie pure.*”⁷⁸⁴ Papal and secular monarchy are equally conceived in terms of estates. What councils are to the former, the estates-general are to the latter—namely, “*collégialstes*”, whose

sovereignty. In this case, however, it is interesting to note that the conservative concept of sovereignty is set in contrast to it. Thus, Stahl writes: “*The state, even if sovereign, is not the absolute power on Earth,*” since it must not violate personal or acquired rights (*Rechtsphilosophie*, II, 2, 155).

⁷⁸⁰ 101. Du Pape, II, 3 = Oeuvres, Sp. 332. Vgl. II, 9 = Sp. 370: “*Il n’y a point de gouvernement qui puisse tout. En vertu d’une loi divine il y a toujours à côté de toute souveraineté une force quelconque qui lui sert de frein.*”

⁷⁸¹ 102. *Ibid*, I, 1 = Oeuvres, Sp. 246 f.

⁷⁸² 103. *Ibid*, II, 2 = Oeuvres, Sp. 328.

⁷⁸³ 104. *Ibid*, II, 4 = Oeuvres, Sp. 334 f.

⁷⁸⁴ 105. *Ibid*, I, 1 = Oeuvres, Sp. 247.

decisions the Pope or the King must not overturn under any circumstances.⁷⁸⁵ This provision ensures that monarchy does not fall into arbitrariness or unpredictability. With regard to secular monarchy in particular, it is significant that de Maistre considers not only the king's rights but also those of the aristocracy to be inerrant and independent; he writes that the rights of the people "*partent assez souvent de la concession du souverain ... ; mais les droits du souverain et de l'aristocratie... n'ont ni date ni auteurs.*"⁷⁸⁶ Even these inerrant royal rights, however, are subject to the *lois fondamentales*, which, like the *constitution*, do not possess a tangible meaning⁷⁸⁷ and, for that reason, cannot be abolished, because they were not created by anyone. For a law stands above all only if no one has made it; if someone had created it, they would also be capable of revoking or overriding it.⁷⁸⁸ Thus, de Maistre inverts the principle of modern sovereignty, which holds that the sovereign cannot be bound by laws of which he is the free creator.

We have examined de Maistre's theory of sovereignty in some depth here because it paradigmatically embodies the overall conservative position.⁷⁸⁹ The analysis of the conservative understanding of the character and competencies of kingship in the next section will reveal the extent to which the traditional concept of sovereignty was received and applied in conservative thought after 1789. Here, however, we want to supplement the previously outlined ideal type by incorporating Haller's position, which, while not deviating from fundamental principles, does contain an interesting variation in its justification. Haller combines the traditional theological argumentation with a secular and, to some extent, naturalistic perspective, thereby limiting the prince's sovereignty not only through divine law but also through the very idea of power—a paradox that has misled some contemporaries and scholars alike. For Haller, it is evident that the law of power, that is, the right of the stronger, which is decisively evident at all levels of human coexistence, must also play a determining role in the question of

⁷⁸⁵ 106. *Ibid*, I, 4 = Oeuvres, Sp. 258, 260. Similarly, Cortés, Obras, II, 522–524.

⁷⁸⁶ 107. *Considérations...*, VI = Oeuvres, Sp. 47; emphasis mine.

⁷⁸⁷ 108. VIII = Oeuvres, Sp. 64.

⁷⁸⁸ 109. *Essai sur le principe générateur...*, II = Oeuvres, Sp. 111.

⁷⁸⁹ 110. C. Schmitt, who—apparently without precise knowledge of the texts and their intellectual-historical context—attempts to make de Maistre into a theorist of sovereignty, does not distinguish between the traditional and modern concepts of sovereignty and thus considers "*infallibility*" and "*the inappellable decision*" to be the essential characteristics of "*sovereignty*", without addressing the crucial question of the creator of law. As a result, de Maistre's traditionalist or counter-revolutionary authoritarianism is most erroneously transformed into a decisionist doctrine of sovereignty (*Politische Theologie*, 71f.). Schmitt's error apparently led Rhoden to see in de Maistre primarily a "*jurist*", who harbored an enlightened-absolutist ideal of state and bureaucracy. Rhoden dismisses de Maistre's corporatist-aristocratic argument against absolutism with the remark: "*Here, the juridical precision of his thinking evidently fails!*" (J. de Maistre, esp. 104 f., 243).

sovereignty: a sovereign or prince cannot be an elected representative of the people but must be the strongest of all.⁷⁹⁰ The appeal to the law of power is evidently directed against the doctrine of popular sovereignty—against a concept of sovereignty that Haller considers despotic. But how can a bulwark against despotism be constructed from the law of power or the right of the stronger? Haller does so by adopting the traditional principle, defended by de Maistre, that “*il n’y a point de gouvernement qui puisse tout*” and translating it into the language of power: there is no power on earth that can do everything. Precisely because power is conceived naturalistically here, it is also regarded as physically limited; for Haller cannot conceive of an absolute domination of the community by concentrated political power in the way that modern sovereignty implies. Thus, power can never become absolute, but there can be a power stronger than all others, one that is exclusively self-reliant: “*Sovereignty consists ... in independence, in the contingent circumstance of having no human superior above oneself and owing account for one’s actions to no one except God.*”⁷⁹¹ This means that no one is in a position to infringe upon the domain of *sovereign* power; but given that no power is absolute, it also means that *sovereign* power itself cannot subjugate the territories controlled by lesser power holders. On the contrary, because the law of power applies at all levels and not only to the *sovereign* instance, there must be multiple independent—if unequal—domains in which the universal validity of the law of power manifests through the presence of a power holder. This creates a hierarchy of power holders whose rights are essentially the same, as they all derive from power and independence. The primordial power of lower levels thus restricts the equally primordial but greater power of the highest level;⁷⁹² the sovereign remains absolute only within the boundaries of his own domain—which fully aligns with the traditional concept. Haller explicitly rejects the principle of modern sovereignty that legislative power constitutes the highest authority in the state and argues that princely and private laws differ not in nature but only in degree; the prince may stand above his own laws, but these are in turn restricted by other laws or rights.⁷⁹³ And if the prince treats the affairs of the state as his own private matters, this is not due to a generally recognized or factually existing power to rule arbitrarily, but simply because he himself is a private individual, while at the same time, the state

⁷⁹⁰ 111. Cf. the detailed justification in *Restauration*, I, Chap. 13ff.

⁷⁹¹ 112. *Ibid.*, I, 452.

⁷⁹² 113. *Ibid.*, 417ff. The young Radowitz summarizes Haller as follows: “*Sovereign is he who has no earthly lord above him,*” but this “*by no means implies unrestricted power over those below him*” (*Fragmente*, I = *Ausg. Schriften*, II, 342f.). Other conservatives independently of Haller also expressed the idea that the presence of power or sovereign authority at all levels of society both limited the sovereignty of the highest level and universally affirmed the principle of sovereignty itself—thus indirectly strengthening the highest level. Cf., for example, the anonymous *Briefe über Staatskunst*, 240.

⁷⁹³ 114. *Restauration*, II, esp. 179, 183, 187f., 217f., 377.

remains so rudimentary and undeveloped that it can be treated as a private matter by the most powerful private person. As a private individual, the prince possesses wealth that makes him financially independent from his subjects—but this independence also ensures the independence of his subjects, who do not need to pay taxes; the same applies to the army, officials, etc. Haller's prince is sovereign because there is no modern state and no modern concept of sovereignty. This is the final—rather trivial—consequence of the described, yet original, interpretation of the idea of power. Against the modern concept of sovereignty, Haller employs not only this interpretation but also traditional arguments, as evidenced in his discussion of the divine right of kings. This divine right, he argues, does not mean that the prince may transgress human laws but, on the contrary, that he is obligated before God to uphold the law.⁷⁹⁴

Before 1789, conservatives recognized and opposed the modern concept of sovereignty as it manifested in the form of absolutism. In the Revolution, however, they encountered this idea in the guise of popular sovereignty, which found its concrete constitutional expression in a national assembly. The conservative view of the Revolution as a continuation and structural completion of absolutism was precisely based on the observation that the new *pouvoir constituant* laid claim to the same sovereignty as absolutism, only with an intensity hitherto unimaginable. Accordingly, the conservative reaction intensified. Yet from the outset, the rejection of popular sovereignty, as exercised by the Constituent National Assembly, was accompanied by a rejection of the separation of powers. For it became evident that this division, as demanded and implemented at that particular moment, was not intended to maintain a balance of powers but rather to weaken and subordinate the executive led by the king, while simultaneously ensuring the omnipotence of the legislative body—the very power that sought to create entirely new laws and thereby realize the modern concept of sovereignty in its purest form. Thus, when conservatives opposed the separation of powers, they did so with both pragmatic arguments (the impossibility of such a division given the factual interdependence of powers) and state-theoretical ones (the detrimental consequences of such a division for the internal unity of the polity and, consequently, for the fulfillment of its ethical purpose). In essence, they were combating the modern concept of sovereignty in its revolutionary form. The struggle against the omnipotence of the Constituent National Assembly as the negation of freedom⁷⁹⁵ began early in France, and Rivarol explicitly stated why: in light of the fact revealed by the Revolution that “*au fond il n’y a de pouvoir dans un état que le pouvoir législatif*” (at its core, there is no power in a state other than the legislative power), there was a risk of the other powers being overwhelmed by it. Thus, if one wished to rein in the Revolution, which had taken control of the legislature, the legislative power itself had to be

⁷⁹⁴ 115. *Ibid.*, 646 Cf. Chap. II, Sect. 3b.

⁷⁹⁵ 116. For example, Abbé Maury, cf. Godechot, *Contre-Révolution*, 34f.

divided—by granting the king an *veto absolu* rather than merely a *veto suspensif*.⁷⁹⁶ However, outside of France, the implications of the separation of powers and the role of the legislative national assembly in relation to the executive, particularly the king, were also quickly recognized. In 1790, Brandes referred to the “*gesetzgebende Versammlung*” (legislative assembly) as a “*Despot*” and foresaw: “*If the executive power is excluded from legislation, it will constantly be at risk of destruction.*”⁷⁹⁷ In 1793, Rehberg observed the fulfillment of this prediction—namely, the subjugation of the executive and the king to the legislature—and lamented the inevitably abstract and geometric nature of legislation produced by a legislative assembly that was isolated in its absolute sovereignty and thus reliant solely on pure reason.⁷⁹⁸ The discourse on the “*most monstrous despotism*” of legislative assemblies, which were subject to neither divine nor natural law, as well as on the separation of powers as a constitutional mechanism intended “*to make the people sovereign and to degrade the prince into a mere servant,*” quickly became a conservative commonplace.⁷⁹⁹ It was not so much the limitations that constitutionalism sought to impose on governmental power that disturbed conservatives, but rather the “*unrestricted power*” granted to “*so-called representatives of the people,*”⁸⁰⁰ which transformed constitutionalism into the “*sharpest contrast to self-government,*” since “*all rights are transferred to centralized representation.*”⁸⁰¹ Under these circumstances, it could once again be asserted that “*state absolutism*” could stem not only from princes but equally from parliaments or democratic assemblies devoted to the principle of separation of powers.⁸⁰² This resulted in a combination that was intolerable to conservatives: on the one hand, state power was monstrously strengthened and centralized, yet on the other hand, it was fragmented by the separation of powers, leading to a loss of authority. In contrast, conservatives advocated for the opposite combination: a kingly or state authority that was limited by parliamentary (estate-based) power but remained unified and, within its boundaries, absolute. Here, the parliament would not be the supreme state power but rather its limitation.⁸⁰³ This, once again, pointed back to the traditional concept of sovereignty.

Burke is known to be among those who vehemently attacked the unlimited and uncontrolled power of the legislature in France, as well as the subjugation of the

⁷⁹⁶ 117. Extraits du Journal, Oeuvres, IV, esp. 184f., 188f., 189f.

⁷⁹⁷ 118. Polit. Betrachtungen, 97, 10f.

⁷⁹⁸ 119. Untersuchungen, 150f., 113, 102 ff.

⁷⁹⁹ 120. The expressions originate from Haller, Constitution, 13, 16 ff.; Restauration, II, 185.

⁸⁰⁰ 121. Cf. Radowitz, Gespräche, IX = Ausg. Schriften, I, 226.

⁸⁰¹ 122. L. v. Gerlach, Denkwürdigkeiten, II, 526. He subsequently writes: “*France was never more centralized than under the constitutional regime.*”

⁸⁰² 123. Stahl, Rechtsphilosophie, II, 2, 157.

⁸⁰³ 124. Cortés, Obras, II, 775, 780.

executive and the king to it.⁸⁰⁴ If, in regard to the English situation—especially during the conflicts with George III—he effectively demanded the omnipotence of Parliament, he tended, in his fight against the French *Constituante*, to emphasize the fiction of the *system of balances*.⁸⁰⁵ And while he found the free mandate suitable for English conditions, he denied the right of the representatives of the *États Généraux* of 1789 to ignore the imperative mandate given to them and to constitute themselves as a legislative National Assembly.⁸⁰⁶ The explanation for this shift in stance—since it is not a logical contradiction—is revealing for the conservative view of parliamentary sovereignty, but it can only be understood in light of our discussion on the complicated relationship between constitutional fiction and reality in 18th-century England.⁸⁰⁷ Burke's work fully reflects the ambiguity of contemporary English ideology and politics. On the one hand, he defends the (factual) sovereignty of Parliament in the new, narrower sense of the word (thus excluding the king), while on the other, he venerates the fiction of the organic development of *common law* and the harmonious balance in the constitution (i.e., the *King-in-Parliament* scheme). Because both aspects were as intertwined in his thinking as they were in his political environment, he could focus on one or the other depending on the needs of the moment, without feeling that he had changed his position. To the extent that the French revolutionary development revealed to him the final implications of parliamentary sovereignty, a stronger alignment with the English constitutional fiction was to be expected, which is evident in Burke's revised assessment of kingship after 1789.⁸⁰⁸ On the other hand, the departure from the theme of parliamentary sovereignty in England—however necessary it was for tactical and propagandistic reasons—did not necessarily contradict the condemnation of the sovereignty of the French legislature. This was due to the fundamentally different function of the two sovereign bodies in question. In England, the *de facto* sovereignty of Parliament (in the new sense of the word) served to defend the established order—namely, the already entrenched rule of the oligarchy—whereas the French *Constituante* used its sovereign legislative power to overthrow traditional structures of rule. Precisely because the function of the English Parliament lay in the conservation of the existing order, the constitutional fiction—particularly concerning the royal prerogative—could be upheld without major difficulties. However, the French National Assembly could not afford such a luxury, as it had to reckon with strong resistance from the Crown against its revolutionary plans, should the latter have possessed the constitutional means to counteract them. For this reason, Burke, like other conservatives, now defended the

⁸⁰⁴ 125. Reflections, Works, III, 290, 496 ff.

⁸⁰⁵ 126. Appeal..., Works, IV, 207f. Cf. the insightful remarks by Schumann, Burke 78f.

⁸⁰⁶ 127. Müller, Mandat, 21 ff

⁸⁰⁷ 128. Cf. Chap. II, Sect. 5

⁸⁰⁸ 129. Cf. the following section.

royal prerogative, since the nature and function of the sovereign body had changed. It should also be recalled that Burke had already rejected the radical version of modern sovereignty (i.e., "*that any body of men have a right to make what laws they please – or that laws can derive any authority from their institution merely, and independently of the quality of the subject matter*") as early as 1765, apparently with a sidelong glance at the unforgettable experiments of the English Civil War, which were disastrous for the oligarchy.⁸⁰⁹ Thus, insofar as sovereignty served not to conserve a system of rule but to overthrow it through radical new legislation, it met with Burke's disapproval. What troubled him about the proclaimed sovereignty of the people was not so much *the people* as *sovereignty* itself,⁸¹⁰ specifically in the form of *legislation ex nihilo* for the overthrow of the existing order.

Finally, it should be noted that after 1789, conservatives opposed modern sovereignty not only with the notion of divine law and its implications but also by arguing that *legislation ex nihilo*, based on the will of the moment, was incompatible with the idea of the people and the commonwealth, which consisted not only of the living but also of past and future generations, to whom the legislator must always remain accountable. This argument had already been put forward many times in past centuries as a defense of the traditional order.⁸¹¹ After 1789, it was repeated by Burke and others and was ultimately incorporated into the historical school of thought, which rejected popular sovereignty by replacing the atomistic notion of the people with the idea of the people as a continuous entity, whose will was expressed through tradition.⁸¹² Furthermore, conservatives after 1789 sought to combat modern state sovereignty with two additional arguments that had already been employed in the 16th century: first, the unity of ethics and politics, which led to the condemnation of *Staatsräson* (reason of state); and second, the doctrine of *status christianus*, which dictated that individual states should be guided in their actions by Christian principles. This will be discussed in the following section.⁸¹³

c. The Role and Limits of Royal and State Authority

The fundamental fact that the modern idea and practice of sovereignty after 1789 unfolded primarily under the banner of the Liberal-Democratic revolution, rather than predominantly as Absolutism, profoundly influenced the relationship of Conservatism to Monarchy. A nobility that was often politically disempowered or placed in the service of the state had to recognize the monarchy, which stood at the

⁸⁰⁹ 130. Tract on the Popery Laws, Works, VI, 322. In the same passage, *reason of state* and *Hobbes* are also criticized.

⁸¹⁰ 131. Cf. Hilger, Burke, 39.

⁸¹¹ 132. Cf. Chap. II, Sect. 4d.

⁸¹² 133. Rexius, Studien, 498.

⁸¹³ 134. Cf. Section 4a in this chapter.

head of an already significantly expanded state apparatus, as its strongest and indeed its only viable ally. As Mallet du Pan eloquently put it: “*Pour ce qui est de la noblesse je ne sais pas si avec le roi elle pouvait quelque chose; mais ce qu’il y a de sûr est que, sans le roi, elle ne pouvait rien.*”⁸¹⁴ The great commonalities of blood and aristocratic ethics, which had often faded into the background amidst the heat of struggle between the upper class of the *societas civilis* and the king as the bearer of modern statehood, were now quickly recalled. Above all, it was recognized that, given what the Revolution signified, the nobility and monarchy were bound together for better or worse: “*If the nobility allows the throne to be attacked, the nobility is lost; for what is at stake is heredity. If princes allow the nobility to be deprived of its well-acquired rights, then the power of the princes wavers; their hereditary right then stands alone and is thereby endangered.*”⁸¹⁵ Despite this revival of memory and deepening of understanding in the face of revolutionary mortal danger, the nobility never buried its old hostility toward absolutism. Even in moments when it sought a counter-revolutionary alliance with the monarchy, it continued to express this enmity—showing once again how deeply the long struggle against absolutism had shaped the conservative worldview. The categorical rejection of absolutism, combined with the insistence that the monarchy energetically employ the means of state at its disposal against the Revolution, resulted in an ambivalent position, capable of multiple variations.

A good example of the new assessment of monarchy under the pressure and impression of the events of 1789 is Burke, who, as Stahl⁸¹⁶ noted, “*recognized the necessity of independent royal power through the Revolution.*” While around 1770 he still regarded royal prerogative as “*dead and rotten,*”⁸¹⁷ by 1790 he set aside the reality of the English constitution in favor of its fiction, arguing that the English king was “*a real king and not an executive officer*” and possessed significant direct power, and even greater indirect power.⁸¹⁸ In general, he advocated for a strengthening of royal power at the head of the executive⁸¹⁹ and, in a tone somewhat unusual for him, praised monarchy as a guarantor of “*property, order, and regularity.*”⁸²⁰ Nevertheless, in substantive terms, Burke was not particularly original on this point, even if his rhetorical and journalistic talent gave his position greater influence and dissemination. Others in France had already undergone the

⁸¹⁴ 135. Mémoires, I, 403.

⁸¹⁵ 136. Ancillon, *Über den Geist*, 88 f. Similarly, Burke expresses himself in his letter to Rivarol from June 1, 1791 = *Corresp.*, VI, 268. Cf. the sentence by abbé Maury quoted by Aulard, *Orateurs*, 256.

⁸¹⁶ 137. Rechtsphilosophie, I, 560.

⁸¹⁷ 138. Cf. above, Chapter II, Section 5.

⁸¹⁸ 139. Letter to a Member of the National Assembly, *Works*, IV, 50.

⁸¹⁹ 140. Letters on a Regicidal Peace, IV = *Works*, VI, 33.

⁸²⁰ 141. Letter to R. Burke, Jr., from September 26, 1791 = *Corresp.*, VI, 413.

same transformation somewhat earlier and in a more dramatic manner. Setting aside minor cases such as Ferrand,⁸²¹ the paradigmatic example is d'Antraigues. During the minor *Fronde* that preceded the Revolution of 1789, d'Antraigues was an eloquent advocate of the estates' rights against the Crown, doing so—of great interest for the history of conservative thought—on the basis of theoretical constructions that had been commonplace among French conservatives since the *Monarchomachs* of the sixteenth century.⁸²² He recalled the originally elective nature of the monarchy and the legislative authority of the *Champs de Mars*, granted the *General Estates* the right to make binding decisions if necessary, affirmed the right of resistance, polemicized retrospectively against the absolutism of Richelieu and Louis XIV, and so forth.⁸²³ Just a year later, he had undergone a complete *volte-face*: he no longer spoke of the shortcomings and weaknesses of the higher nobility that he had previously lamented, he forgot the favorable words he had once spoken for the *Tiers* during its brief alignment with the estates against the Crown, and, above all, he now portrayed the function of monarchy in a fundamentally different way. Whereas in 1788 he had endorsed the separation of powers with the goal of reserving decisive legislative authority to the *General Estates* and leaving only the executive to the king, by 1789 he rejected that very separation of powers and instead sought to vest the king with legislative functions, including a veto over the legislature. Additionally, he now viewed divine right in a more favorable light and tended toward a rehabilitated image of the *ancien régime* as a whole.⁸²⁴ He was not alone in this transformation. In the *mea culpa* atmosphere that spread among émigré circles after successive catastrophes, there emerged not only a romantic idealization of the monarchy as a guarantor of order and hierarchy but also a glorification of the executed royal couple, in stark contrast to the dismissive assessments many nobles had held before 1789 regarding Louis XVI's intellectual sluggishness and Marie Antoinette's frivolity.⁸²⁵

Despite all the psychologically understandable and propagandistically necessary idealization of the *ancien régime* and the monarchy, the nobility after 1789 did not envision an absolutist monarchy, but rather an estates-based, legally bound, aristocratically controlled monarchy—in short, a traditional and traditionalist monarchy, not a sovereign one.⁸²⁶ Burke's call for a solid monarchy

⁸²¹ 142. For more on him, see the brief discussion in Beik, *French Revolution*, 20, 54.

⁸²² 143. A crucial and characteristic aspect is also the *English* Fénelon—see Riemer, *Staatsanschauung*, 89ff. For information on the influence of Boulainvilliers, see the works cited in the next note.

⁸²³ 144. Riemer, *ibid.*, 30-62; Beik, *French Revolution*, 11-13; Godechot, *Contre-Révolution*, 12-14.

⁸²⁴ 145. Riemer, *ibid.*, 106, 113 f.; Beik, *ibid.*, 18f., 50.

⁸²⁵ 146. Baldensperger, *Le Mouvement*, II, 49f., 116; Aulard, *Orateurs*, 191f.

⁸²⁶ 147. Cf. Beik, *French Revolution*, 111.

was accompanied by the clarification that he meant “a monarchy directed by laws, controlled and balanced by the great hereditary wealth and hereditary dignity,” along with a rejection of “the old fanatics of single arbitrary power” and the “old prerogative enthusiasts” who believed in the special divine sanction of monarchy as a form of government. Burke countered this with the *pactum subiectionis*, thus reconnecting with the scholastic and estates-based tradition.⁸²⁷ The same was done by abbé Barruel, who also advocated strengthening the monarchy as a bulwark against the Revolution, while at the same time maintaining the scholastic theory of the divine nature of governing authority as such—contrary to the contingent nature of government forms. He reiterated the traditional distinction between king and tyrant and insisted on the binding nature of monarchy to the *lois fondamentales*.⁸²⁸ Rivarol expressed the same idea in secular language when he called the monarchy “un resserrement de l’aristocratie.”⁸²⁹ In all these statements about the origins and nature of kingship, there was manifest hope and desire that a victory over the Revolution would mean not a return to absolutism but rather the (somewhat reconfigured) *societas civilis* as the only social order truly immune to revolutionary subversion. The persistence with which kings were spoken of in the Aristotelian-scholastic and Germanic-inflected language of estates reflected the conviction that the *societas civilis* did not irrevocably belong to the past. The continued assertion that the entire state was embodied in the monarch did not signify an endorsement of absolutism; rather, it merely expressed that the state was not conceived as one part of the polity standing against another part, namely society. Since the modern separation of state and society was thus fundamentally rejected, the monarch could only symbolically represent a single, indivisible whole. Similarly traditional were other attributes ascribed to the king. His divine right was not to be “an earthly legal title” or “a cloak under which he could hide absolutist tendencies and ambitions”, but rather “a noble, humble expression of dependence on the King of Kings.”⁸³⁰ The medieval idea remained intact that the king was not a legislator (at least not a creator of the foundations of law) but rather a judge and military leader.⁸³¹ Against this backdrop of the unbroken continuity of the *societas*

⁸²⁷ 148. Reflections, *Works*, III, 395, 265, 267. Let us recall that this dual attitude toward the monarchy also had precedents in 18th-century England. When Bolingbroke advocated his ideal *Patriot King*, he simultaneously expounded the traditional scholastic theory of government power in contrast to the form of government—see *Works*, III, 47f.; cf. 65f.

⁸²⁸ 149. Godechot, *Contre-Révolution*, 48-50; Beik, *French Revolution*, 21, 47.

⁸²⁹ 150. See Barth, *Idee*, 906.

⁸³⁰ 151. Grandziège, Vol. 7.

Bonald, *Observations... Oeuvres*, VII, 657; Jarcke, *Verm. Schriften*, I, 152; Haller, *Restauration*, II, 64.

⁸³¹ 152. Schlegel, *Die Entwicklung der Philosophie* (Cologne Lectures 1804/5), XI = *Werke*, XIII, 160.

Bonald also argued that state power has *deux fonctions éminentes: juger et*

civilis's legal conceptions and their implications for monarchy, it becomes clear why estates-based arguments continued to be employed in every major confrontation between the nobility and the king even after 1789, as was frequently the case in Prussia. Most nobles did not feel that such arguments harmed the counter-revolutionary cause. When Marwitz invoked treaties and assurances,⁸³² he could argue that, given the revolutionary threat, it was not only the nobility that needed the king but equally the king that needed the nobility. If the king, "*the foremost among the propertied*,"⁸³³ stood alone before the mass of the people, his position would be unsustainable in the long term. "*A middle class [= pouvoir intermédiaire] is therefore necessary to divide and oversee the mass of the people*"—and in order to fulfill this function, the nobility required its full privileges.⁸³⁴

To the extent that conservatives viewed the Revolution as the outflow and completion of modern sovereign statehood, they logically considered the preservation of pre-state spaces—and, where possible, a return to the pre-state condition—as the only drastic anti-revolutionary antidote. It is well known in what extreme form Haller envisioned this return, as he understood his *Restauration* literally—namely, as the restoration of the "*pure patrimonial state*"—⁸³⁵and even considered the word "*government*" to be "*semi-revolutionary*", as it fatally suggested to princes the idea that they "*must govern all sorts of things and private affairs*."⁸³⁶ On

combattre—*Démonstration philosophique*, VII = *Oeuvres*, VII, 62–66.

For the binding of the monarchy to the *lois fondamentales* and *lois religieux*, see *Théorie du Pouvoir*, I, 1,8 = *Oeuvres*, III, 91f.

⁸³² 153. II, 1, 153, 156, 168, 170, 172, 178, 230, 288, 318, 319, 345; II, 2, 37, 54; cf. Steffens, *Hardenberg*, 13, 26.
I, 671.

⁸³³ 154. I, 671.

⁸³⁴ 155. On the necessity of a middle class in a monarchy (Dec. 1810) = II, 1, 198. A much earlier statement by Moser is noteworthy in its corporatist sincerity: "*The king is essentially the primus familiarum of the landowners and not of the entire population; his primary duty is to secure the landowners so that people do not do them injustice*" (*Werke*, IX, 258f.).

⁸³⁵ 156. *Restauration*, II, 372 ff.

⁸³⁶ 157. *Ibid.*, I, 478f.

Haller's proposals for reducing modern statehood aimed at restricting the number of officials, promoting fiscal austerity, and abolishing the former princely taxation rights (*ibid.*, III, 160, 65; II, 318f.). In idealizing the pre-state condition, Moser (*Patr. Phantasien*, I, 54 = *Werke*, IV, 266 f.; cf. IX, 266–268, 304) and the Romantics preceded him. For Novalis' glorification of the patriarchal-monarchical view and its metaphysical premises, see Meinecke's insightful analysis in *Weltbürgertum*, 62f.; also, Fr. Schlegel, in his early conservative years, described "*returning to the old*" and "*the constitution of the Middle Ages*" as "*the task of politics*" (*Lectures on Universal History*, IV, §10 = *Werke*, XIV, 254, 256; cf. his 1803 fragments = *Werke*, XVIII, 492). On similar tendencies among the circles of the French émigrés, see Baldensperger, *Le Mouvement*, II, 152ff.

As is well known, politically significant conservative circles voiced strong reservations against such tendencies—see the characteristic example of Ancillon, *Vermittlung*, esp. 50f.; cf.

the other hand, it cannot be denied that, despite the theoretical sympathy of many conservatives for Haller's fundamental concept, only a few could follow him when it came to dealing with actual political tasks. The practical necessity of a militant alliance between the nobility and the crown left little room for the estate-based dualism (let alone the dissolution of the polity into private persons or *oikos*-leaders), making it likely that Haller's concept was viewed as "*more of a theoretical showpiece than a real political goal.*"⁸³⁷ The extent to which times had changed after 1789 can even be seen in Haller's own writings, where he at least indirectly accounted for the new need to strengthen royal power by rejecting the right of resistance, deeming the election of kings impractical, and ultimately siding clearly with princes in his portrayal of the old struggles between rulers and estates.⁸³⁸ However, even conservatives whose thought was originally influenced by Haller soon had to detach themselves from his political concept. Thus, Radowitz—who never ceased to condemn constitutions as "*the bureaucratic regime of Russian sultanism*"—recognized, despite his "*personal sympathies*", the practical irretrievability of the estate-based monarchy,⁸³⁹ which had "*vanished from public consciousness.*" If the main flaw of absolutism was that it sought order at the expense of freedom, then, conversely, the estates, which had indulged in too much freedom, had failed to ensure order. "*Historically, legally, and practically, every monarchy is rooted in the patrimonial principle. But the root is not the tree.*" Those who longed for earlier times failed to see this and denied the necessity of developing into a "*constitutional monarchy.*"⁸⁴⁰ In search of a theoretical balance and a practical solution, conservatives formulated a middle ground: they desired neither a despotic monarchy (as in Turkey) nor an elective monarchy (as in Poland), as both were equally unstable.⁸⁴¹ The conservative rejection of the elective monarchy was already well established, but now additional modifications of scholastic-estate-based state theory were introduced. The old topos, that "*the king exists for the sake of the people,*" which had now been reinterpreted in a revolutionary manner, was expanded to mean that "*king and people are equally dependent on and*

Stahl, *Rechtsphilosophie*, I, 567. Particularly emphatic is Cortés' distancing from the Middle Ages (*Obras*, II, 764)—which was by no means coincidental: the more activist and concretely political the reaction against the Revolution became, the clearer the inadequacy of calling for a return to the past as a means to combat the contemporary enemy was recognized (see below).

⁸³⁷ 158. So Stahl, *Parteien*, 327.

⁸³⁸ 159. Restoration, II, 450 ff.; III, 435 ff., 374f. Cf. v. Sonntag, *Staatsauffassung*, 93 f.

⁸³⁹ 160. Fragmente, I = *Ausg. Schriften*, II, 285.

⁸⁴⁰ 161. *Ibid.*, 382f., 301 f., 375.

⁸⁴¹ 162. Bonald, *Démonstration philosophique*, XI = *Oeuvres*, VIII, 79.

Cf. Cortés' polemic against the extremes of *monarquía feudal* and *monarquía absoluta*, *Obras*, II, 769.

*inseparable from one another.*⁸⁴² The estate-based element thus had to be theoretically and practically set aside—at least partially, and at least at certain times and in certain places. Someone like Friedrich Schlegel, who lived at the Viennese court, could more easily express the thought: “An estate-based state, which rests precisely on the organic structuring of the estates and thus also on their separation, can only be held together by monarchical power.”⁸⁴³ The decline of the feudal system and the old estate-based monarchy was ultimately celebrated as “progress” by those conservatives who believed that under the given circumstances, their cause could best be served by a non-liberal form of constitutionalism.⁸⁴⁴

This described ambivalence in the conservative stance toward monarchy after 1789 allowed for comfortable flexibility in theory but often complicated practical decisions under the pressure of concrete circumstances. This dilemma, which ran through the entire conservative camp, could also be observed in more narrowly defined conservative milieus and even within individuals. A particularly illustrative example is provided by the *Gerlach Circle*. Within it, there prevailed a sentiment that Leopold von Gerlach expressed as follows: “A dreadful situation—being battered between revolution and absolutism, as a street urchin would put it.”⁸⁴⁵ His brother Ludwig, who had been influenced by Haller early on, sought to escape this predicament by reviving the estate-based monarchy, which was meant to eliminate both revolution and absolutism in one stroke. While the idea itself was not particularly original, its significance lay in the timing of its formulation, as it represented one of the last consistent affirmations of the pre-state legal conception—its failure thus testifies to the fact that pure conservatism, as a political force, was no longer viable and that conservatism as a historical phenomenon had reached its end. Ludwig von Gerlach did not simply confine himself to the usual condemnation of the revolutionary aspect of absolutism as “constitutionalizing on a *tabula rasa*”⁸⁴⁶ but combined this with his rejection of the absolutist version of divine right, with an emphasis on the similarity between royal and estate-based rights, which already sounded peculiar by the mid-19th century.⁸⁴⁷ In his favorite saying—“*I am also a king*”—an ancient awareness made its last appearance, an awareness that could no longer find or did not wish to find its place in the

⁸⁴² 163. For example, Maistre, *Du Pape*, II, 1 = *Oeuvres*, Sp. 327. Against elective monarchy, II, 9 = Sp. 368.

⁸⁴³ 164. Fragmente (1820) = *Werke*, XXII, 21. This corresponded to Metternich’s inclination, despite his traditional assessment of the advantages of the *monarchie tempérée*, to assign the estates only auxiliary functions—see Srbik, *Metternich*, I, 370, 376 f.

⁸⁴⁴ 165. So Stahl, *Parteien*, 327. Cf. Section 5a of this chapter.

⁸⁴⁵ 166. *Denkwürdigkeiten*, I, 588.

⁸⁴⁶ 167. *Nachlass*, I, 304. Cf. above, notes 16, 23, 32.

⁸⁴⁷ 168. See the account by Martin, *Autorität*, 173f. The same motives are characteristically summarized in an 1848 essay by v. Thadden-Trieglaff—see the text in Mommsen (ed.), *Parteiprogramme*, 36f.

contemporary world. That the nobility was by then long incapable of making such claims to the crown is shown by Leopold's objections to his brother's statement. While Leopold shared his brother's aversion to despotism and also held estate-based rights in high regard,⁸⁴⁸ he did not want the phrase "*I am also a king*" to be understood as a challenge to the divine right of kings, but rather as "*a confirmation of the divine right that one has as a Christian, a father, a human being.*"⁸⁴⁹ Moreover, he could hardly conceive of kingship independent of the person of the monarch, whom he saw as the true object of service—hence, he had to endure his brother's accusation of "*servility.*"⁸⁵⁰ At a time when any talk of *original rights of the people* could be reinterpreted in a revolutionary sense, Leopold distrusted the idea that "*the people as such could be a legal subject and possess freedoms*" and argued instead that "*the unity of the people is essentially unorganized and incoherent until it finds its unity in the king.*"⁸⁵¹ What this declaration of allegiance to monarchy meant in concrete terms is revealed in Leopold's broader assessment of the socio-political situation: "*Under bureaucratic despotism, only the king and the estates provide protection. If the latter fall, only the former remains.*"⁸⁵² Here, the expectation is articulated that the king would fulfill conservative tasks that the estate-based forces, due to their acknowledged powerlessness, could no longer accomplish alone. However, it remains unexplained how exactly the monarchy was supposed to counter bureaucrats other than through bureaucrats—thus, despite his realistic assessment of the estate-based forces, Leopold's vision remained politically vague. By contrast, other conservatives linked their monarchist convictions with a "*governmentalist*" or (in Ludwig von Gerlach's words) "*absolutist*" outlook, as they came to realize over time that the nobility not only needed the monarchy but also required a solid state apparatus headed by the king. Thus, by 1864, Leo considered "*loyalty to a monarchy based on bureaucracy and the military*" to be the first duty of conservatives. In this perspective, the maintenance of *suum cuique* in an estate-based sense was no longer seen as an absolute, enforceable goal but rather as a request addressed to the Christian conscience and the monarch's sense of tradition.⁸⁵³ The "*split within the conservative party into one faction favoring absolutism and another seeking to make the king dependent on conservative chambers*"⁸⁵⁴ was thus inevitable due to the aforementioned differences in opinion—and just as inevitable was the practical victory of governmental conservatism over estate-based conservatism.⁸⁵⁵ However,

⁸⁴⁸ 169. E. L. v. Gerlach, *Nachlass*, II, 622.

⁸⁴⁹ 170. *Ibid.*, 745.

⁸⁵⁰ 171. L. v. Gerlach, *Denkwürdigkeiten*, I, 745; Meinecke, *Tagebücher*, 74f.

⁸⁵¹ 172. *Ibid.*, 596.

⁸⁵² 173. E. L. v. Gerlach, *Nachlass*, I, 695.

⁸⁵³ 174. *Was ist konservativ? = Nominal. Gedankenspiele*, 59f.

⁸⁵⁴ 175. So E. L. v. Gerlach, 1852, *Aufzeichnungen*, II, 147.

⁸⁵⁵ 176. See the brief description of Prussian developments since the time of the *Reaktion*

this victory was itself only unavoidable because conservatism, as conservatism, no longer possessed historical vitality.

Not only did the general socio-political constellation after 1789 force conservatives to rethink the monarchy, but also the specific pressure exerted by the constitutional question. The drive toward constitutionalization could not be held back *ad infinitum*, and the very example of the *Restauration* in France demonstrated its strength through the *Charte* that had been granted. Thus, in the end, (more insightful) conservatives had no choice but to channel this drive through non-liberal or anti-liberal constitutions, ensuring that the king's position in these frameworks would even more effectively block the path to popular sovereignty. Such constitutional drafts date back to the early phase of the French Revolution and are strongly influenced by the English constitutional fiction, as popularized by *de Lolme*. De Lolme argued that the power of the English king was real and even greater than that of the French monarch, as he led the executive and also shared the legislative function with Parliament.⁸⁵⁶ On this model, French conservatives based their constitutional proposals after 1789. We have already mentioned how *d'Antraigues*, after his change of heart, envisioned a strong monarchy. Likewise, *Cazalès*, who praised the collaboration of *King, Lords, and Commons* in the English constitution, wanted to grant the king, whose power he believed rested on more original rights than those of the National Assembly, not only control over the executive but also significant participation in the legislature through a right of veto—so as to *protect the "people" from the despotism of the National Assembly*.⁸⁵⁷ Similar proposals were made by *Mallet du Pan*⁸⁵⁸ and *Montlosier*⁸⁵⁹ with analogous justifications. The continuity of this theme in conservative constitutional thought became evident in the debates of the *Restauration* period. Montlosier returned to his earlier proposals, arguing that the king should exercise his legislative function not through the right of initiative but only through an (absolute) veto, justifying this by pointing to the dangers of continuous royal involvement in partisan struggles. An absolute veto seemed justified to him because *law in its entirety originates from the king*.⁸⁶⁰ *Chateaubriand*⁸⁶¹ thought similarly at the time. The assumption of the king as

and the *Neue Ära* in Schüddekopf, *Innenpolitik*, 44-67.

⁸⁵⁶ 177. *Verfassung Englands*, Vol. II, Chapters 1-3, 17 = pp. 188f., 353f.

This interpretation of the English constitution was, as is well known, supported in early Revolutionary France by a specific reading of Montesquieu's writings on the subject

⁸⁵⁷ 178. Beik, *French Revolution*, 27; Aulard, *Orateurs*, 275f.

⁸⁵⁸ 179. *Mémoires*, I, 186-188.

⁸⁵⁹ 180. Beik, *French Revolution*, 35.

⁸⁶⁰ 181. *Monarchie*, IV, 246 f.

⁸⁶¹ 182. *De la Monarchie selon la Charte*, I, 4-12 = *Œuvres*, XI, 8ff. On the constitutional-historical background of these ideas from Montlosier and Chateaubriand, see Meisner, *Monarch. Prinzip*, 32ff. It should be added here that Montlosier—and to some extent also Chateaubriand—did not share the view of a strong English monarchy. However, this

the source of law could, in a vague way, still be reconciled with the legal conception of the *societas civilis*, but it nevertheless marked a new activism that had become inevitable, given that legislative practice under constitutionalism now daily disproved the old belief in the *unmakeability* of law. In this new context, the king could no longer be merely a “judge” in the traditional sense, since law was no longer simply in need of interpretation in its fundamental immovability, but was visibly *made* by concrete men—at whose head now stood the king.

This new activist tone is also evident in *Stahl’s* constitutional plans, which essentially adapt this foundational scheme to Prussian conditions. Stahl shares the original conservative aversion to the separation of powers, viewing it as intended to subordinate the executive (the king) to the legislature (the representatives of the people), and accordingly, he advocates for drastic royal influence over the legislature in the form of a “definitive”, not merely suspensive, veto.⁸⁶² At the same time, he adopts the old *anti-absolutist* tropes, denying that “absolute royal power”⁸⁶³ is inherent in the principle of legitimacy or divine right. On the other hand, he does not want the restriction of royal power to be understood in the sense of “those limited monarchies in which the king is bound in one sphere and acts entirely arbitrarily in another.” In a constitutional monarchy, he argues, the power of the people’s representatives “opposes the king in all spheres”—but this, in Stahl’s view, only proves that royal power extends over all areas, as it is precisely through its absolute veto that it “can nullify the power ambitions of the representatives and protect the (noble) minority from the majority.”⁸⁶⁴ Thus, the monarchical principle is established, which clearly implies a strengthening of royal power relative to the traditionally understood concept of sovereignty.⁸⁶⁵ The monarch represents and personifies the state; as sovereign will, he is present and effective throughout the entire domain of the state, his “innermost personality” rather than his ministers, and he “unites within himself the various branches of power.”⁸⁶⁶ With respect to the danger of “despotism”, Stahl simultaneously asserts that it is precisely because of this identification with the state that “the power of the prince is entirely determined by the principles of the state.” Thus, the good prince is not a ruler over the state, but a ruler within the state.⁸⁶⁷ Here, we do not seek to determine whether Stahl thereby paved the way for the theory of the state

made no difference in practical results, as even those who held such beliefs merely sought to reinforce their preconceived decision to strengthen the crown in pursuit of their own objectives.

⁸⁶² 183. *Parteien*, 114ff.

⁸⁶³ 184. *Ibid*, 301.

⁸⁶⁴ 185. *Revol. u. const. Monarchie*, 76.

⁸⁶⁵ 186. This already follows from Stahl’s statement that, while sovereignty of the king exists in England, the monarchical principle does not (*Mon. Princip.*, 12).

⁸⁶⁶ 187. *Rechtsphil.*, II, 2, 190ff., 239, 242.

⁸⁶⁷ 188. *Ibid*, 240, 258.

as a *juridical person*, or whether his overarching concept of the state is ultimately just an embodiment of the *traditional idea of law*. What remains unclear, however, is what all this means in concrete political terms—how the new *active role of the crown in all areas of state life* is to be reconciled with the preservation of traditional rights, given that no institutional safeguard is proposed. The prince is expected to “*consult the will of the estates*”, but he is *not bound to follow it*; the *rights of the estates*, which are granted only “*moral force*”, are *not autonomous* but stand under *princely authority*—and only thus, Stahl argues, *can they be truly protected*. This was, in truth, the final and utmost concession that the nobility could offer to the monarchy *in exchange for the “protection of the minority against the majority.”*⁸⁶⁸ In its historical weariness, the nobility renounced traditional *institutional* guarantees against absolutism in order to secure the *active* support of the monarchy against the Revolution. Yet even so, Stahl’s position was by no means that of the entire nobility. This renunciation was neither embraced by the whole nobility nor wholeheartedly accepted—and to the extent that it was accepted, it was in vain.

d. Reaction and Dictatorship

The problem of reaction and dictatorship in the thought and actions of counter-revolutionary conservatism can only be understood against the backdrop of the old ambivalence in the aristocracy’s relationship to the modern state.⁸⁶⁹ The aristocracy remained socially and ideologically anchored in the *societas civilis*, yet at the same time, due to its social predominance, it had to claim and occupy most of the key positions within the emerging state apparatus. Thus, even as it submitted to the state, it was able to influence, undermine, or curb it in the interests of the *societas civilis*. This ambivalence intensified after 1789 because the *societas civilis* was more threatened than ever before and was therefore recognized and idealized by its sensitized agents and defenders as a structure and way of life in an unprecedented manner. Simultaneously, however, the state had to be called upon as never before to defend the *societas civilis*. The aristocracy, or conservatism, sought to resolve this antinomy by playing off the earlier and milder form of modern sovereignty and statehood—namely absolutism—against its later and more radical form, the Revolution. In doing so, absolutism was to be retroactively transformed into a kind of patriarchal monarchy under the influence of its counter-revolutionary alliance with the aristocracy, while at the same time fully deploying the instruments it had originally developed in its struggle against the *societas civilis* to now defend this very *societas* and aristocratic social rule against the Revolution. The fundamentally *ständisch* (estate-based) attitude toward monarchy, coupled with the desire to activate the monarchy as much as possible against the Revolution, clarifies what a conservative like the young Bismarck meant when he

⁸⁶⁸ 189. Mon. Princip, 16, 21, 32.

⁸⁶⁹ 190. See above, Chapter II, Section 3a.

wrote to Leopold von Gerlach that he was "an absolutist only in times of uprisings.⁸⁷⁰" The democratic mockery, "*And the king is absolute, if he does our will,*" aptly captured the aristocracy's position. The wish to harness the originally absolutist—and thus "revolutionary"—state apparatus for conservative purposes initially met with some success, as evidenced by the functional transformation of Josephinism after 1792.⁸⁷¹ However, in historical perspective, it amounted to an attempt to square the circle. At its core, it was the desire to save the supposedly "organic" through sovereign power and deliberate, decisive action—or, given the already factual dissolution of the *societas civilis*, to reconstruct it or even to create it anew on a "healthier" basis. The paradox of this wish was highlighted by both friends and foes alike.⁸⁷² The final outcome, however, was not the resurrection of the *societas civilis* or the revitalization of the aristocracy, but rather its growing dependence on an inexorably expanding state. Thus, Lagarde could remark in 1853, not without justification: "*This aristocracy, without support in government, would vanish like March snow, for it has no support in its own worth.*"⁸⁷³ Insofar as the aristocracy sought to harness the state for its own ends, it fell victim to the *heterogony of ends*: everything it undertook played out differently than intended and ultimately turned against its own authors.

In the anti-absolutist struggle, conservative activism had taken the form of the right to resistance exercised by aristocratic *frondeurs*; in the struggle against the Revolution, it assumed the form of reaction and dictatorship. In the former case, the *societas* was still largely intact, and conservative action was directed against threats from above, often arising from the spontaneous and uncoordinated

⁸⁷⁰ 191. Cited in Saile, *Wagener*, 37.

⁸⁷¹ 192. Valjavec, *Josephinismus*, 99.

⁸⁷² 193. Thus, for example, Gentz wrote to Miller on July 8, 1816 (*Correspondence*, 222):

"But to create municipal constitutions where there are none—is that any easier? Is that, according to your principles and those of your friends today, any more correct than creating full-fledged constitutions?"

Campe admitted that the partial, or at least the complete obscuring, of the old estates-based relations would make *octroying* a political necessity under certain circumstances. He, for his part, was prepared to approve of *state emergency law*, which must intervene for the salvation of the common good when legal forms fail (*Landstände*, 254, 6).

And Rochau ironically remarked:

"It remains a remarkable phenomenon that the very party which constantly speaks of historical rights, organic structuring, and the natural state-life—which believes it cannot condemn lawmaking, bureaucratic rule, and mechanical governance harshly enough from the standpoint of the *good old times*—that this party, in the most blatant contradiction to all these slogans, demands that the people be legally reinserted into an estate-based system from which they have historically evolved... The organic structuring of society shall be devised at the *green table* and imposed from the state chancery... History must either be as the *historical school* wants it, or it shall not be history at all" (*Grundsätze*, 64).

⁸⁷³ 194. *Deutsche Schriften* (1920), 31.

initiatives of energetic aristocratic power centers. In the latter case, however, the threat came from below, and the now considerably weakened *societas civilis*—or rather, aristocratic social rule—sought support from the monarchy, which, standing at the helm of the modern state apparatus, was itself in danger. A prerequisite for a policy of reaction and dictatorship was, in other words, the aforementioned shift in the aristocracy's stance toward the crown after 1789. Reaction and dictatorship became possible when the monarch, at the head of the state apparatus, sided with the aristocracy,⁸⁷⁴ an aristocratic dictatorship over absolutism on a pre-state basis was unthinkable, but a dictatorship serving aristocratic interests and based on the existing absolutist structure against the Revolution was conceivable. Thus, reaction and dictatorship became the natural goals or methods of conservatism in a historical moment when it had its back against the wall. There is no reason to separate these goals or methods from the supposed "essence" of conservatism in order to preserve it in an untainted, intact form. As we have already explained,⁸⁷⁵ the opposition between conservatism and activism is a polemical-ideological construct of conservative self-perception that should not be taken at face value. Reaction and dictatorship, in other words, are not independent entities alongside a hypostatized conservatism; rather, they are political techniques or techniques of governance⁸⁷⁶ that conservative forces—who themselves can only be defined in terms of concrete social agents and concrete social aims, not in terms of their political methods—have used or at least sought to use under certain conditions. The fact that conservatives never succeeded in establishing the true "dictatorship of the sabre" that Donoso Cortés dreamed of was not because the idea was inherently foreign to them in its entirety, but because the inner contradictions of their politics, rooted in their ambivalence toward the state, made them incapable of doing so—something their ignominious failure in France in 1830 demonstrated. Thus, *nolens volens*, they had to content themselves with various forms of authoritarian rule, which were labeled "reactionary."

Under the pressure of the concrete situation in which the aristocracy found itself after 1789, the drive toward activism was almost inevitable, even if this was lamented by some conservative ideologues who, not being politically responsible, had more leisure to reflect on the discrepancy between organicist theory and voluntarist politics. Schlegel regretted this discrepancy, as well as the activist inclination of conservatives—which verged on the revolutionary—with the following remarkable words: "*One... great evil of our time lies in this strange characteristic: that now everything immediately becomes a party matter, that even what is good and right in thought and sentiment is so often seized and dominated by this boundless*"

⁸⁷⁴ 195. This was well understood in the 19th century—see the references in Kondylis, *Reaction and Restoration*, 213 ff.,

⁸⁷⁵ 196. See Chapter 1, Section 1.

⁸⁷⁶ 197. Valjavec casually refers to reaction as a *technique of governance* (*Entstehung des europäischen Konservatismus*, 146).

spirit of excess, whose unconditional essence and inorganic action can, by its very nature, easily turn destructive and, against its own intention, ultimately work toward the same goal and chaotic outcome as its enemy, the revolutionary mindset.⁸⁷⁷ Similarly, it was lamented that the "fear of democracy, driven to the point of madness, motivated politically responsible conservatives to act without any moral considerations, sacrificing everything in the fight against the 'red specter'—honor, justice, and reason."⁸⁷⁸ Anyone who wanted to substantiate this claim by looking at the recent past would find no shortage of examples. They could begin with the activities of the *Contre-Révolution*, which ranged from paid espionage to ruthless *Terreur Blanche*;⁸⁷⁹ mention the incitement of mobs and assassinations (not to speak of repressive legislation) in Restoration France;⁸⁸⁰ or recall some German aristocrats who, in 1848, attempted to bribe workers with money to instigate an armed uprising as a pretext for military intervention.⁸⁸¹ This practice was matched by brief but characteristic theoretical attempts to legitimize the use of force politically and historically, even while glorifying "organic development." The argument that law develops organically and should therefore be left to return to its "natural," i.e., pre-revolutionary, state, was countered by Jarcke (who was by no means an extreme reactionary) with the following warning: "In itself, the doctrine of the historical emergence and formation of law is undoubtedly correct, but—like any other one-sided, abstract theory—it can... in good faith or out of scholarly narrowness be used as a tool that serves the purposes of the Revolution by paralyzing the most effective resistance against it."⁸⁸² Leo, in turn, justified the authorities' actions during the Cologne events by openly relativizing organic principles and correspondingly elevating mechanical ones: "We must never fail to recognize the blessings of an organically developed national life. However, where such a life becomes impossible in any respect, and where the nature of the time and circumstances demands a mechanical approach, we should only criticize it insofar as it is conditioned by arrogance and arbitrariness, but we must acknowledge the strength and efficacy demonstrated by a community in producing and shaping such mechanical forms of life."⁸⁸³

The recourse to the "mechanical" i.e., to organized force, could, however, be justified without such an open relativization of the organic principle—indeed, it could even be presented as its defense. This highly useful casuistic possibility was afforded by the mere formality, and thus the substantive non-commitment, of the

⁸⁷⁷ 198. *Signatur des Zeitalters*, I = Works, VII, 492.

See also XXII, 50: "The *Ultras* in France have taken on an entirely revolutionary character."

⁸⁷⁸ 199. Thus Radowitz, in a letter to his wife from October 24, 1852 (*Posthumous Letters*, 405).

⁸⁷⁹ 200. See the highly informative Part 2 of Godechot's *Contre-Révolution*.

⁸⁸⁰ 201. Resnick, *White Terror*, especially 9 ff., 53, 75.

⁸⁸¹ 202. Details on this in Jordan, *Entstehung*, 287.

⁸⁸² 203. *Collected Writings*, III, 543.

⁸⁸³ 204. *Sendschreiben*, 20 ff.

said principle. For the decision as to when “organic development” necessitates change and when a change must be classified as a violation of the organic character of development is ultimately a matter of interpretation—and therefore of power. In any case, conservatives have always interpreted the organic principle in accordance with their preferred political tactics at any given time, invoking it whenever an abrupt change proved disadvantageous to them, while denying the necessity of “organic development” *hic et nunc* as long as they remained firmly in control. Thus, Burke, who in 1790 lamented *post festum* the lack of organic development in France, ⁸⁸⁴ had already in 1782 opposed a peaceful and by no means radical expansion of the social groups represented in Parliament with the very same fundamental arguments that he would later use against the Revolution itself: the constitution had existed “times out of mind,” the nation was “an idea of continuity,” wisdom lay with the species rather than the individual, and so forth.⁸⁸⁵ To obstruct the path to reform, Burke claimed that this very reform struck at the substance of the constitution itself,⁸⁸⁶ thereby transforming a concrete political dispute into a matter of principle where no concessions could be permitted. Significantly, he did not reject the reform proposals on the grounds that they were radical; rather, he immediately considered the ultimate consequences of initiating any process of change—an argument that could, of course, be used to dismiss any proposed reform *a limine*. From the secure vantage point of his tautological circular reasoning, Burke could even accuse the reformists of their own moderation, asking them—somewhat sophistically—why they wished to impose limits on their reforms if they truly believed in their fundamental correctness.⁸⁸⁷

The analysis of this example makes it clear that conservatives had at their disposal rationalization mechanisms that allowed them to interpret their commitment to the organic principle according to the tactical needs of the moment. Similarly, other rationalization mechanisms were available to justify actions that at least approached a breach of principle. Thus, conservatives occasionally supported administrative centralization or even universal suffrage.⁸⁸⁸ Particularly instructive, however, is their handling of the principle of legitimacy, which most clearly reveals their willingness, in *extremis*, to evaluate political actions with no other consideration than sheer self-interest. It is well known what Gentz thought of the principle of legitimacy at a time when he opposed the restoration of the Bourbons for reasons of state: “However sacred it may be” he wrote, “it was born in time

⁸⁸⁴ 205. *Reflections, Works*, III, 276 ff.

⁸⁸⁵ 206. *Works*, VII, 94-95.

⁸⁸⁶ 207. *Ibid.*, 92.

⁸⁸⁷ 208. *Ibid.*, 100.

⁸⁸⁸ 209. Regarding such positions among the French *Ultras*, see for example the details in Resnick, *White Terror*, 39 ff.; Godechot, *Contre-Révolution*, 29 ff., 39, 53 ff.; Occhslin, *Mouvement*, 181 ff., 130 ff.

and must therefore not be understood as absolute, but only within time, and must, like all things human, be modified by time.⁸⁸⁹ Now, Gentz was not—or at least not always—one of those enthusiastic champions of abstract principles, and so this statement might be seen merely as an expression of his cool political pragmatism. The same cannot, however, be said of Leopold von Gerlach, who so vigorously defended the principle of legitimacy in his famous correspondence with Bismarck. Yet, just days before he came to realize that Louis-Napoléon was an illegitimate ruler (or rather, one legitimized by democracy), he had written that if Napoleon crushed the *Reds*, he would not be entirely without a rightful claim—and then, somewhat melancholically, he added: “This idolatry of princely birth and princely right!”⁸⁹⁰ Here, without circumlocution, it is stated that force and dictatorship are legitimate and confer legitimacy, provided they serve the right cause. Donoso Cortés agreed around the same time, seeing dictatorship “in certain circumstances... as a legitimate government” and demanding the suspension of legality in the name of a higher legitimacy.⁸⁹¹ The principle of legitimacy remained, in the eyes of conservatives, tied to the divine idea of law;⁸⁹² however, this connection ultimately concerned only the ends—not the means or the persons through whom those ends were to be achieved. Thus, the principle of legitimacy was no more an obstacle to reaction and dictatorship than was the organic idea, which had been reinterpreted—or rather, conveniently set aside.

At first, conservatives spoke of “dictatorship” in a negative sense, i.e., in connection with the practices of the revolutionaries in France and the subsequent rule of Napoleon. Without using the word explicitly, Burke remarked that the National Assembly, refusing to submit to the control of any earthly or divine power, was acting not according to a notion of normalcy, but according to that of extreme emergency.⁸⁹³ Mallet du Pan was no less perceptive in grasping the physiognomy of modern sovereign dictatorship when he described in detail how the *Comité de salut public* exercised “la dictature dans toute son étendue”;⁸⁹⁴ later, he

⁸⁸⁹ 210. Regarding such positions among the French *Ultras*, see for example the details in Resnick, *White Terror*, 39 ff.; Godechot, *Contre-Révolution*, 29 ff., 39, 53 ff.; Occhslin, *Mouvement*, 181 ff., 130 ff.

Thus, in an undated letter written in response to a letter from A. Müller dated July 14, 1815 (*Correspondence*, 202).

Compare also the letters to Metternich from February 15, 1814, and July 14, 1815 = *Letters*, III, 1, 247, 312.

⁸⁹⁰ 211. *Memoirs*, I, 703.

⁸⁹¹ 212. *Discurso sobre la dictadura*, *Obras*, II, 30.

⁸⁹² 213. See, for example, Jarcke, *Collected Writings*, III, 115.

⁸⁹³ 214. *Reflections*, *Works*, III, 290, 495; compare 527: “Everything depends on the army in such a government as yours, etc., etc.”

⁸⁹⁴ 215. *Mémoires*, II, 2 ff.

referred to Napoleon as “*maître, dictateur, et souverain de la France*.”⁸⁹⁵ However, it did not take long for conservative voices to emerge reminding royal rulers of their duty to save their people—even against their will—like a good father, and recommending terror, if necessary outside all legality, as the only suitable means to discipline a people that had lost religion and morality.⁸⁹⁶ Such voices became increasingly frequent, and tellingly, they did not come only from the “absolutists” among the conservatives but also from circles that adhered to patrimonial or *ständisch* views. Commenting on the Spanish events of 1820, Haller recommended following a *ständisch* policy to overcome the constitutional crisis and further argued that the “war” against the revolutionaries should be waged “through the spread of a better doctrine, through laws and institutions that rebuild what the sect has destroyed, and finally, of course, through force—if it has become necessary. If the sophists do not recognize your power and your laws, then they have no right to be protected by either; if they treat you as enemies and neither respect law nor formality in their dealings with you, then treat them in kind. They have separated themselves from your people by their principles and their associations and do not deserve to remain within the social order that they are constantly striving to destroy.”⁸⁹⁷ Another conservative observer of the Spanish situation was likewise convinced that a people that “begins to lie” can only be governed “by force, which is itself a kind of truth.”⁸⁹⁸

The considerations and hesitations of the Gerlach circle regarding the question of a royal counter-revolutionary dictatorship are interesting and broadly typical. When Ludwig von Gerlach heard Wagener say in 1849 that the end justifies the means, as long as it is the true end, he was shocked.⁸⁹⁹ Yet only three years later, according to his own admission, he “could come to terms with dictatorship as an event, if I see a dictator.”⁹⁰⁰ Already in the autumn of 1848, in a government plan he

⁸⁹⁵ 216. *Ibid.*, 428.

Compare Gentz's reflections on Napoleon's *dictatorship* in a letter to Böttiger from April 17, 1798 (*Letters*, I, 251 ff.).

⁸⁹⁶ 217. Thus Barruel in 1791 and Montlosier shortly thereafter—see Beik, *French Revolution*, 36, 47.

⁸⁹⁷ 218. Const. of the Spanish Cortes, 84.

A few pages earlier, however, we read that to combat the *godless sect*, there is *no need for persecutions, executions, or banishments, except against proven criminals* (70). This ambivalence is revealing.

⁸⁹⁸ 219. *Spain*, 186.

⁸⁹⁹ 220. Cited in R. Sale, *Wagener*, 23.

In 1863, Wagener proposed to Bismarck a *royal dictatorship*: “Terrorism has a certain right here, since the peoples must first learn obedience again” (*ibid.*, 139, 141, 143).

⁹⁰⁰ 221. Posthumous Writings, I, 324; compare Leopold von Gerlach, *Memoirs*, I, 820 (entry from March 8, 1849).

had drafted, he had not ruled out the use of “armed force,⁹⁰¹” and in view of the European revolutionary upheaval, he remarked: “At all times, from insurrection and war, rule by the sword and dictatorship have emerged, whether ‘from above or from below’—this is the central point to which all questions of the time must be subordinated. That is why our sympathies lie with Austria and against Hungary, with Austria, Prussia, and Russia against the Poles—however much we regret the injustices suffered by Hungary and Poland...⁹⁰²” Thus, in that moment of greatest danger, dictatorship did not appear as a matter of principle but as a question of political expediency, one that should be approached without “organicist” scruples. And if dictatorship was considered undesirable, it was again only for tactical reasons. This is evident from an entry in Leopold von Gerlach’s diary, which is otherwise characteristic of the mindset of a conservative who fought and hated with his whole being and who, at times, wanted to wipe the slate clean by any means necessary, including bloodshed: “A military (reactionary) ministry must be avoided as much as possible. Only after the sovereign people has been subdued can such a thing be considered.⁹⁰³” Leopold uses the word “dictatorship” in connection with the king’s plans to dissolve the assembly of deputies, and he also employs expressions such as “military dictatorship,” “dictatorship of the king,” and “military despotism,” about which he stated in early 1849: “Nothing else remains for us.⁹⁰⁴” The effort to preserve old estate-based constitutional forms seemed futile in the midst of a revolution; what mattered now was the “preservation of royal power, even if it meant preparing for despotism,” as well as the “preservation of property” and the “defense against communism.⁹⁰⁵” In the emergency, the “fundamental principle” should be: “Maintaining the power of the king and the army,” for “only soldiers can deal with democrats.⁹⁰⁶” With these priorities, it was inevitable, as Leopold later admitted in hindsight, that “in the struggle against absolutism, much was neglected”—“but when insurrection rages or slumbers beneath the surface, it is difficult to assert freedom.⁹⁰⁷”

One aspect of central importance must now be highlighted. When conservatives advocate and demand dictatorship, they do not mean a permanent, structurally fixed system of government, but rather a necessary and temporary—though possibly prolonged—recourse to organized military-political force to avert an imminent existential threat. Even this form of dictatorship,

⁹⁰¹ 222. *Ibid.*, II, 591.

⁹⁰² 223. *Notes*, II, 41.

⁹⁰³ 224. Letter to Ludwig von Gerlach from July 20, 1848 = E. L. von Gerlach, *Posthumous Writings*, II, 551.

⁹⁰⁴ 225. *Memoirs*, I, 172, 174, 259, 300.

⁹⁰⁵ 226. *Ibid.*, 208.

⁹⁰⁶ 227. Letter to Ludwig von Gerlach from March 20, 1849 = E. L. von Gerlach, *Posthumous Writings*, II, 628.

⁹⁰⁷ 228. Letter to Ludwig von Gerlach from August 16, 1860, *ibid.*, 1055.

however, is often accepted only with hesitation and under conditions of reassurance.⁹⁰⁸ We will better understand this hesitation—and at the same time, the conservative belief that they remained faithful to their principles even at the moment they called for counter-revolutionary dictatorial force—if we examine more closely their conception of dictatorship. Unlike revolutionary dictatorship, which emerges with the claim to reshape the structure of the political community—i.e., to constitute law sovereignly—conservative dictatorship is understood as a defensive measure to preserve an already existing and historically sanctioned law. And since this dictatorship is meant precisely to counteract the sovereign constitution of law by the revolution, it appears in the eyes of its conservative supporters *ipso facto* as the guardian or even a component of the “organically developed order”—reinforcing the comforting belief that advocating dictatorship does not constitute a departure from their fundamental worldview. After all, conservative dictatorship—at least in its intention and initial form—is not meant to bring a new *pouvoir constituant* to power or keep it there; rather, it is conceived as an emergency government, endowed with a limited and specific mandate and corresponding extraordinary powers—in other words, a commissarial rather than a sovereign dictatorship, to use the precise terminology of Carl Schmitt. For conservatives, the great question now arises: Would the extraordinary exercise of violent action awaken forces, set new chains of action into motion, and lead to such a concentration and structural solidification of state power that, in the future, the state could no longer act in any way other than as a sovereign entity in the modern sense? If so, then the original agent of the counter-revolutionary action would ultimately have become a revolutionary force itself as a result of that very action. This fear was further fueled by the realization that the leadership of the dictatorial action had to be entrusted to the monarchy, which in turn rested upon the state bureaucracy—and precisely because of this objective connection to non-estate-based forces, the monarchy could succumb to absolutist temptations or even enter into a Caesarist alliance with democracy.⁹⁰⁹

⁹⁰⁸ 229. To stay with the most recent examples:

In the same government plan where he advocates the use of military force, E. L. von Gerlach outlines his ideal of monarchy as decidedly estate-based:

“Independence of the crown within the bounds of its right, thus no absolutism” (*Posthumous Writings*, II, 604).

And his already martial brother rejected Austria’s domestic political course on August 13, 1850, arguing that it sought to “overcome constitutional despotism with Josephinist despotism” (*Memoirs*, I, 519).

⁹⁰⁹ 230. Conservatives have always feared that administrative centralization and the dominance of cities (industry) over the countryside (agriculture) could “motivate a kind of *Caesarism* (as it has necessarily existed thus far through the overpowering bureaucracy).”

For them, *police economy* meant as much as “*Caesarism*, *imperialism*, or *military rule* in its origins.”

Thus Friedrich von Gerlach in a letter to Ludwig von Gerlach from June 21, 1863 = E. L. von

The long experience with absolutism, particularly the still-fresh memories of Josephinism, had taught conservatives that formal dynastic legitimacy was not always and necessarily immune to "revolutionary" sympathies. Thus, it was no surprise that their attitude toward dictatorship was significantly shaped by their assessment of absolutism.

In this perspective, it appears symptomatic that Montlosier, already in the early years of the French Revolution, warned nobles who demanded the dictatorship of the king against the loss of their own freedom—⁹¹⁰although, as we know, he himself was at the time convinced of the inevitability of counter-revolutionary violence. Thus, dictatorship could only be accepted if it was certain that it would be nothing more than a *véritable monarchie*: Bonald thus describes the institution of the Roman dictatorship, whose beneficial intervention in the turmoil of domestic political struggles he praises. For him, that dictatorship was an *institution éminemment conservatrice*, meaning that it did not aim to transform the state, but simply to silence rivalries and establish unity among the different centers of power within the state.⁹¹¹ However, its character as an "institution" ensured that it remained within fixed, that is, institutionally prescribed, limits, so that it was predictable and, from the outset, effectively tamed. The sometimes-expressed conservative desire to incorporate emergency powers into the constitution of a law-based state⁹¹² was rooted not least in the concern that dictatorial action should remain predictable precisely through its institutionalization and codification. And if one set aside the danger of absolutism, the exercise of dictatorship by the crown could even be seen as an additional guarantee for the proper course of the entire procedure. Since the monarch symbolically unites all rights within himself, if some of these rights were temporarily suspended, they would not cease to exist but would simply return to their source, where they could remain until they were returned to their individual holders. Seen in this way, the king is the natural dictator in a monarchy when a

Gerlach, *Posthumous Writings*, II, 1147.

From this concern arise the constant reminders to the crown that its only reliable support is the nobility, not the bureaucracy, as well as the open assertion of the *natural enmity* between nobility and bureaucracy—especially at a time when bureaucracy could support not only absolutist but outright dictatorial governments

⁹¹⁰ 231. Beik, *French Revolution*, 59.

⁹¹¹ 232. *Des lois et des mœurs...*, *Oeuvres*, VII, 556 ff.

⁹¹² 233. "The real difficulty in the rule of law is only the admissibility and scope of emergency law," remarked Radowitz (*Fragments*, I = *Collected Writings*, II, 345). The two criteria he mentions for good emergency law—(1) necessity must truly exist, and (2) self-defense must not exceed the necessity—are admittedly non-binding, since interpretation ultimately depends on the interpreter.

However, they reveal a clear intention to limit the state of emergency.

Whether what Radowitz considered a *normal state* appeared the same from the perspective of his political opponents is, of course, an entirely different question

state of emergency arises.⁹¹³

In Jarcke's thorough refutation of the radical concept of a conservative dictatorship, one can clearly discern his fear of the potential (and unintended) transformation of a temporary, commissarial dictatorship into a permanent and sovereign one—especially since his argument is explicitly based on the contrast between the traditional and modern conceptions of sovereignty. Jarcke, who does not use the term “dictatorship”, but rather speaks of a *coup d'état* or *Staatsstreich*,⁹¹⁴ acknowledges that in certain cases, a ruler may have to suspend a liberal constitution. However, he also maintains that “we do not possess a universally valid law for such cases, nor a formula that anyone could simply use in such emergencies”.⁹¹⁵ Thus, dictatorship cannot be a universal political remedy, and with regard to its implementation, no specific guidelines apply, only general principles that must be respected in every case if the endeavor, when dictated by circumstances, is to succeed. It is precisely on these principles that Jarcke focuses. He considers the radical concept of dictatorship to be fundamentally revolutionary for two reasons: Because it seeks to legitimize dictatorship in the name of the common good. Because, in approving the suspension of existing rights for the sake of the common good, it denies the existence of inalienable rights and submits all rights to the will of the sovereign.⁹¹⁶ But this is nothing other than the modern doctrine of sovereignty, according to which sovereignty is precisely absolute power and the unconditional, limitless right to enforce the well-being of society. “*Against this power and this absolute right, no property and no contract has validity,*” and the sovereign does not orient his actions according to distributive justice, but—just like the Revolution—according to the concept of the general welfare.⁹¹⁷ Against this “disastrous invention of recent centuries”, from which absolutism and revolution both arose, Jarcke opposes the traditional concept of sovereignty, in which rule is divinely sanctioned, but absolute power that violates foreign rights is unknown.⁹¹⁸ Thus, it is illogical and impossible to combat the Revolution with its own principle—that is, modern sovereignty and the denial of all rights in the name of the general welfare. Those “well-meaning” conservatives who oppose the Revolution with unrestrained absolutism must have lost all trace of the concept of law.⁹¹⁹

Jarcke wrote this almost two decades before the Bonapartist phenomenon,

⁹¹³ 234. Compare the draft of an unspoken speech by Chateaubriand from 1820, *Oeuvres*, XIV, 105.

⁹¹⁴ 235. *Collected Writings*, I, 76, 79.

⁹¹⁵ 236. *Ibid.*, 7.

⁹¹⁶ 237. *Ibid.*, 68.

⁹¹⁷ 238. *Ibid.*, 70 ff.

⁹¹⁸ 239. *Ibid.*, 72-74.

⁹¹⁹ 240. *Ibid.*, 69.

which deeply impressed not only Marx but also the conservatives, making their stance on dictatorship even more hesitant.⁹²⁰ Yet, even in the case of the two most resolute advocates of a conservative dictatorship, who formulated their concepts before 1851 and therefore did not yet have to account for the danger of Bonapartism, the intention is clearly visible to keep dictatorship within the limits of a commissarial one and not let it expand into a sovereign one. Donoso Cortés, who formulated his plea for dictatorship under the influence of the popular movements of 1848, justified it within a historical retrospective, reconstructing the stages of the loss of freedom in modern times in the usual conservative manner: the feudal monarchy is followed by the absolute monarchy with its standing armies and administrative centralization, and on this already established level of repression, technical inventions create the possibility of an unprecedented tyranny.⁹²¹ The commissarial character of the dictatorship Cortés calls for is already evident from his depiction of the abhorrent yet nonetheless sovereign dictatorship of the enemy: for only from such a dictatorship can absolute unfreedom (as Cortés defines it) emerge or, rather, only within such a dictatorship can absolute unfreedom culminate. Cortés' dictatorship, on the contrary, is meant to halt the development toward absolute unfreedom—not, however, by violently suppressing it all at once, but rather by providing a breathing space, thus allowing a first step toward the recovery of the great religious truths, whose fading had paved the way for political tyranny. It is not the nature of rule based on these truths that necessitates dictatorship, but only the imminent danger of a dictatorship from below, which must be anticipated by a dictatorship from above.⁹²² On the contrary, according to Cortés, democratic or revolutionary dictatorship arises from the very nature of democracy or revolution itself, and precisely in this lies the proof that sovereignty

⁹²⁰ 241. This, of course, only concerns Germany, as the question of a conservative dictatorship did not arise for France (after 1830) and England. Thus, the conservative *Staatslexikon* speaks with unmistakable distrust of the state of siege as a gateway to *Caesarism* and expresses understanding for the liberal aversion to dictatorships (Volume III, page 517ff., article *Belagerungszustand* [State of Siege]); at the same time, it emphasizes the fundamental distinction between *saving acts*, undertaken by the head of state to preserve the existing constitution, and *coups d'état* or *revolutions from above*, lamenting that this distinction has been completely lost in recent times (Volume XIX, page 616, article *Staatsstreich, rettende Thaten* [Coups d'État, Saving Acts]).

Highly revealing is a remark passed down by the Gerlach brothers from Frederick William IV in the year 1855:

"Apart from the parties, there is only Caesarism left, and since our mild, hereditary princes will never be virtuosos in this: Bonaparte." (Posthumous Writings, Volume I, page 356).

This means: since the nobility, by its very nature, is incapable of establishing a consistently dictatorial rule, a dictatorship must aid those forces capable of undertaking such an enterprise—and precisely for that reason, it will turn against the nobility itself

⁹²¹ 242. *Discurso sobre la dictadura*, Obras, Volume II, pages 318–319.

⁹²² 243. *Ibid.*, 322.

in the modern sense—and therefore also sovereign dictatorship—can only be found on the side of the revolution, never on that of the counter-revolution.

A commissarial dictatorship, that is, one exercised on behalf of and in favor of the noble upper class, is also what Cottu demands. The monarch should act dictatorially against those who threaten the social position of the upper class, but at the same time, he must not claim sovereign rule over that very same upper class. From a noble perspective, this is the ideal dictatorship. Hence, Cottu resorts to the usual anti-absolutist argumentation precisely at the moment when he attempts to illustrate the “necessity of a dictatorship”: “*Jamais le pouvoir absolu n’a été reconnu en France; jamais la nation n’a consenti à être gouvernée par la volonté arbitraire de son prince.*” And if the Bourbons must remain on the throne, it is only because they guarantee “*vraie liberté,*” whereas any other form of government would inevitably lead to despotism.⁹²³ However, this monarchical constitution, which guarantees freedom (for the ruling upper class), must be structured in such a way that “*les privilégiés puissent arrêter les entreprises de peuple, et maintenir leurs prérogatives, qui sont toujours odieuses par elles-mêmes et toujours en danger dans un État libre.*”⁹²⁴ Cottu accepts the de-feudalization of society that took place after 1789. He understands that the current privileges of the upper class no longer rest on traditional feudal rights, just as the modern nobility bears little resemblance to the former feudal lords. He even recognizes a minimal degree of formal equality and rule of law.⁹²⁵ However, this must be strictly maintained, and to ensure that it remains so, the Chambre, which is supposed to restrain the monarch, must be composed exclusively of those “*personnellement intéressés au maintien des privilèges établis.*”⁹²⁶ If, however, the Chambre were to fall under the control of “*revolutionary*” elements (a scenario that, according to Cottu, has already begun), conflict would become inevitable. The only remaining question for the Crown would then be: “*à savoir quel est le moment qui lui est le plus favorable pour commencer une guerre impossible à éviter.*” The privileged minority must eventually resort to dictatorship, though it would be unwise to begin with it. Cottu proposes a different approach: the dictatorship should be prepared through various royal ordinances. Then, at the right moment, the Crown should declare that the security of the state is at risk and seize the “*pouvoir constituant,*” thereby dissolving the Legislative.⁹²⁷ In such a moment of danger, the Crown should feel bound by no constitutional promises, for: “*car personne peut être contraint à travailler à sa propre ruine.*”⁹²⁸ Here, beyond any

⁹²³ 244. *De la nécessité*, pages 18, 24.

⁹²⁴ 245. *Ibid.*, 24.

⁹²⁵ 246. *Ibid.*, 97, 146ff.

⁹²⁶ 247. *Ibid.*, see also pages 19, 98. The electoral law proposed by Cottu is intended to ensure this (pages 69ff.).

⁹²⁷ 248. *Ibid.*, 118f.

⁹²⁸ 249. *Ibid.*, 106.

theologically tinged rhetoric about divinely granted rights, we hear the secular voice of sheer self-preservation. At the threshold of decisive conflict, everything appears as a struggle—there is no time for idealization, sublimation, or rationalization. History is understood solely through the lens of power. It is worth quoting Cottu's reflections on this: "*L'histoire de chaque peuple n'est que l'histoire des efforts de chacune des classes qui composent ce peuple pour s'emparer du pouvoir; comme l'histoire du monde n'est que l'histoire des efforts des différents peuples pour s'assurer mutuellement... Ni le droit de propriété, ni le droit d'hérédité, ni aucun droit civil, ne sont écrits sur la voûte de ceux ni dans la conscience de l'homme. Ils sont tous le résultat de la loi sociale; et lorsque cette loi est brisée, tout est remis en problème.*"⁹²⁹ This may all be true. But when Cottu wrote these words, he evidently overlooked the fact that the logic of power only favors the conservative cause as long as the conservatives remain the more powerful.

4. The Idea of *Societas Civilis* in the Struggle Against the Modern State

a. The Conservative Concept of State and Society.

The Unity of Ethics and Politics and the Rejection of Staatsräson (Reason of State).

The explicit and emphatic rejection of the modern doctrine of sovereignty—despite the recognized necessity of resorting to the absolutist state apparatus to suppress the Revolution and despite the intensification of conservative activism in the demand for dictatorship—constitutes the negative and indirect proof of the conservatives' adherence, after 1789, to the idea and reality of *societas civilis*. The positive and direct proof of this is found in their statements about the nature, origin, and "natural" structure of the polity, statements that are all nourished by Aristotelian-Scholastic thought and are only to a very small extent original, insofar as their reworking and supplementation of this body of thought appear necessary for the refutation of a particular aspect of liberal or democratic social-theoretical constructions. The Aristotelian-Scholastic *topoi* thus fundamentally retain their original meaning, as they ideologically reflect the reality of *societas civilis*, which the conservatives also seek to preserve. However, in their contemporary polemical usage, they are infused with a particular ideological content, in which the hopes, goals, and desires—in short, the normative conceptions—of the conservatives after 1789 are embedded. An example of this polemical-ideological shift or expansion in meaning of traditional *topoi* can be seen in the thesis that *societas* was created by God for the spiritual perfection of man, which can only be realized in coexistence with others.⁹³⁰ In the ancient Aristotelian perspective, this was meant to elevate the

⁹²⁹ 250. *Ibid.*, 110–112.

⁹³⁰ 251. See, for example, Burke, *Reflections, Works*, III, 354. Burke here adopts the Aristotelian-Scholastic tradition, presumably through the mediation of Hooker; cf. the remarks by Schell, *Engl. Rechtsdenken*, 110 ff.

higher speculative life goal of the free nobleman above the crude existence of the laboring commoner or slave, and in the Christian-medieval context, it served to support the socially leading position of the Church as a spiritual institution. After 1789, however, it was primarily deployed in the struggle against liberal economism and "materialism," along with their anthropological premises.⁹³¹

The intertwining of social-theoretical statements and legitimizing purposes in the conservative reformulation of Aristotelian-Scholastic *topoi* is already evident in the reaffirmation of the principle that *societas* is not made but is divinely given and has existed from time immemorial. This is not merely a historical assertion but also implies that a polity that was not made cannot be made or altered. More concretely: if it has always existed, then it must also always have existed in its long-established form—that is, as *societas civilis*—and will never exist in any other form; for if it exists prior to any conscious socio-political activity of man, then it cannot have received its form from man but only from a higher power, which is precisely what proves the immutability of this form. Conversely, if the polity arose from a deliberate and purposive human activity, then it can be remade—meaning that its form can be fundamentally changed.⁹³² The debate over the origin of the polity is thus merely the reverse side of the highly contemporary debate over its *machbarkeit*—that is, over the (theoretical) legitimacy of the revolutionary claim to shape the polity according to the postulates of human reason or human sovereign will. In a passage from Bonald, who among all conservative theorists was perhaps the most directly influenced by Scholastic thought, this conceptual framework is condensed into the statement: "*La société existe: elle est donc dans la nature de l'homme; les lois de son existence sont donc nécessaires, comme la nature de l'homme.*"⁹³³ From the mere existence of a thing, however, its necessary anchoring in nature does not necessarily follow, and thus it is not immediately evident why *societas* should be grounded in human nature simply because it exists. Logically speaking, it would rather follow that the necessity of *societas* should be derived from the nature of man rather than the necessary anchoring of *societas* in human nature being inferred from its existence. This logical leap in Bonald's argument arises from his eagerness to root the existence of *societas* in a deeper and firmer stratum of being. The genetic dependence of *societas* on human nature does not mean that the polity was brought into being by human will; human nature by no means coincides with the fickle will of finite man⁹³⁴ but is the work of God, so that the rooting of *societas* in human

⁹³¹ 252. See also Section 7a in this chapter.

⁹³² 253. See, for example, Müller's summary of the theoretical implications of the *unfortunate doctrine* that there was a state of nature and a time before any state existed, *Elemente*, II, pp. 27–29.

⁹³³ 254. *Théorie du Pouvoir*, Preface = *Œuvres*, III, 14.

⁹³⁴ 255. Bonald makes this important distinction several times, for instance, in the sentence: "*The political constitution of societies is the necessary result of human nature, and not the fruit of human genius or the accidents of events,*" *ibid.*, I, 1, 13 = *Œuvres*, III, 116.

nature is equivalent to its rooting in the immutable will of God. However, according to Bonald, it is not *societas* in the abstract that is rooted in the nature of man or in the will of God, but *societas* as it exists under certain necessary laws. Thus, through the mediation of God and (human) nature, the necessity of *societas* in general is transformed into the necessity of a particular form of *societas*.

This is very clearly demonstrated by the way in which the *lois nécessaires* prevailing in the *societas* are defined. According to the first of these, *pouvoir*, as Bonald always writes in close adherence to the Scholastics, is just as much part of the nature of *societas* as *societas* itself is part of human nature. Thus, the *pouvoir public* is itself *conforme à la nature des êtres en société*.⁹³⁵ In the *pouvoir public* or *général*, the *general will*⁹³⁶ of the *societas* becomes apparent, seeking to preserve itself, and this is achieved by constituting itself on the basis of certain *lois fondamentales*, that is, by shaping *pouvoir* into a specific functional form, from which the constitution of the *societas* arises. These fundamental laws originate, just like *pouvoir* or *societas* itself, from human nature—and it is no different with the *lois politiques*, which in turn are a necessary consequence of the *lois fondamentales* and, as such, have the task of determining the modalities of the form of government in detail.⁹³⁷ The close connection between *lois politiques* and *lois fondamentales*, which is also expressed in the synonymous use of both terms, is of concrete importance because the position of dominance held by the nobility (which Bonald describes as *hérédité de la profession militaire*, ensuring the *fixité et perpétuité de la force publique*) belongs to the central *lois politiques*, indeed, it is *conséquence nécessaire de la loi fondamentale des distinctions sociales, et fondamentale lui-même*.⁹³⁸ Given the coherence of this deduction, which begins with God and, through human nature, arrives at individual *lois politiques*, a very specific form of *societas*, in which very specific people rule, must appear as the only possible *societas*. This is the concrete implication of the theory of the unmakeability of *societas*. Precisely because, in Bonald's view, the fact of *societas* as such is inseparably linked to a specific form of *societas*, he demands the total socialization of individuals through a practically

⁹³⁵ 256. *Ibid.*, I, 2, 3 = *Œuvres*, III, 123, in conjunction with *Démonstration Philosophique*, VI = *Œuvres*, VIII, 55. De Maistre deduces in the same Scholastic manner in *Du Pape*, II, 1 = *Œuvres*, col. 327; cf. Burke, *Reflections*, Works, III, 354, on the influence of de Maistre on German conservatives, who welcomed Haller's *Patrimonialism* but feared his *Naturalism*. On this point, see Scheel, *Berl. Pol. Woch.*, 49f, 54f; cf. E. L. v. Gerlach, *Aufzeichnungen*, I, 288.

⁹³⁶ 257. On the meaning of this concept in Bonald, see above, Section 3 in this chapter.

⁹³⁷ 258 *Théorie du Pouvoir*, I, 1, 3–6–12 = *Œuvres*, III, 51, 78–80, 114.

⁹³⁸ 259. *Ibid.*, I, 1, 7 = *Œuvres*, III, 86.

See the following passage, which is also of conceptual-historical interest due to its connection between the idea of *conservation* and the nobility (cf. above, Chapter II, Section 4a): “In political society, the only force of conservation lies in the profession that is essentially conservative, namely, the nobility,” *ibid.*, III, 2G, 1 = *Œuvres*, IV, 351

all-encompassing educational program:⁹³⁹ the complete integration of individuals into *societas* must, under the given premises, lead to the unconditional acceptance of the propositions emphasized by Bonald. The goal of this socialization is the eradication of that individual reason which questions the existing form of *societas* and thus, according to conservative doctrine, threatens to dissolve *societas* itself and as such.

Even among other conservatives who did not present their theories with Bonald's deductive rigor, the connection of the thesis of the unmakeability of *societas* with the dual interest in legitimizing a particular form of *societas*, namely noble rule, and in contesting the reformist or revolutionary claim of reason, can be observed. For man, the bearer of this reason, cannot step outside the commonwealth to view, judge, and construct it from without; every real or conceivable individual stands in the midst of the historical process that constitutes the multifaceted life of *societas*, and it is impossible that this process begins indifferently with the individual and his reason, which cannot conceive of a condition prior to *societas*: if *societas* is nature, then there can be no natural state without *societas*.⁹⁴⁰

It is obvious that a *natural state* in which socially lived law, justice, or semi-civic status exists is always embedded within a larger or smaller piece of culture. This must be emphasized in order to understand occasional conservative statements that assert the artificial character of *societas* and social institutions. This is not a contradiction but rather a polemically conditioned modification of the fundamental thesis of the naturalness of *societas*. Since revolutionary natural law, in turn, bases itself on nature and the natural state, conservatives had to argue that conceptions of the natural state could only be linked to the assumption of an original equality of all men because, at that time, people were not yet truly human; insofar as raw nature was overcome and man became man, that is, achieved his *true* natural determinations, hierarchy and inequality also emerged. These may be *artificial* in relation to raw nature, where all are in themselves equal, but they are not artificial when measured against *true* nature. Burke, for example, argued in this way to demonstrate the naturalness of aristocracy and the corresponding form of government: "*The state of civil society which generates this aristocracy is a state of Nature — and much more truly so than a savage and incoherent mode of life. For man is by nature reasonable; and he is never perfectly in his natural state, but when he is placed where reason may be best cultivated and most predominates. Art is man's nature.*"⁹⁴¹ And

⁹³⁹ 260. *Ibid.*, III, 1, 1 = *Ceuvres*, IV, 193.

⁹⁴⁰ 261. See, for example, Müller, *Elemente*, II = p. 22 ff. It is noteworthy that Müller, a reader of A. Smith, also uses a very modern argument to demonstrate the necessity of the state (= *societas*): history can be understood as *a struggle between man and the earth*, but this struggle can only be fought collectively, that is, by economically and legally organized humans (*ibid.*, III = p. 38f).

⁹⁴¹ 262. *Appeal...*, *Works*, IV, 175f. Similarly, Burke considers *the people* as "*wholly artificial*"

Rivarol observed, in opposition to the revolutionary program of grounding social organization in natural facts and deriving social equality from natural equality, “*que le corps politique est un être artificiel qui ne doit rien à la nature; que les hommes naissent inégaux, et que la loi est l’art de niveller les inégalités naturelles*.”⁹⁴² Given the polemical context, no other argumentation was possible: if the Revolution stood for the rights of nature, then conservatives had to defend artifice and culture, dismissing the revolutionary concept of nature as crude and barbaric; if, on the contrary, the Revolution exalted the rights of reason, then conservatives could not avoid asserting the primacy of nature as manifested in *societas* over reason. Various intersections and differently dosed mixtures of the concepts of nature and reason served to satisfy all possible casuistic needs in all possible ideological emergencies.

Alongside the theory of the naturalness of *societas*, conservatives also adopted another central motif from the Aristotelian-Scholastic social-theoretical tradition: the consideration of the (extended) family or the *oikos* as the fundamental unit and, at the same time, the miniature of *societas*. This social-theoretical topos was also tied to legitimation purposes, as the noble lord was still primarily regarded in his capacity as the head of an *oikos*; thus, the preservation of his fundamental power base had to appear as the prerequisite and guarantee for the survival of *societas civilis* as a whole, if *societas* was indeed composed of such *oikoi*. The *oikos* does not simply constitute the elementary unit of *societas* in numerical terms, but in a qualitative and structural sense: it is, namely, a *societas in parvo*, containing all the real and ideal elements that make up the *societas in magno*. The complete analogy between the patriarchal extended family and the monarchically governed *societas*,⁹⁴³ frequently asserted by conservatives, was elaborated in detail by Bonald and simultaneously expanded into a general theory of all organizational forms of the commonwealth. The thesis that the two *états* of *societas*, namely *domestique et publique*, have “*une constitution semblable*”⁹⁴⁴ is illustrated through a series of symmetrical trinities, which structurally unify familial (Father — Mother — Children), social (King — Nobility — Third Estate), political (Government Power — Ministers — Subjects), and religious (God — Priest — Believers) levels.⁹⁴⁵ The social type of family that Bonald regarded as the fundamental building block of *societas* is “*la famille agricole et propriétaire*”, that is, the *oikos* of the noble landowner.⁹⁴⁶ The association of multiple such families gives rise to “*l’état politique de la société*”,

when he seeks to refute the idea that a people could already exist as an organized and decision-making entity in the state of nature, before the constitution of a *societas* (*ibid.*, 169f).

⁹⁴² 263. *Extraits du Journal*, *Œuvres*, IV, 113.

⁹⁴³ 264. See, for example, Haller, *Restauration*, II, 25 ff.

⁹⁴⁴ 265. *Législation primitive*, II, 5 = *Œuvres*, I, 390–392.

⁹⁴⁵ 266. *Essai analytique sur les Lois Naturelles, Discours Préliminaire* = *Œuvres*, I, 5f; *Démonstration Philosophique*, I–VIII = *Œuvres*, VIII, 46ff. Cf. the analysis by Moulinié, Bonald, 288 ff.

⁹⁴⁶ 267. *Démonstration Philosophique*, V = *Œuvres*, VIII, 54.

whereby *societas* expands without altering its essence; for “*comme la famille était un État en petit... ‘État lui-même’ est qu’une famille en grand.*”⁹⁴⁷ The family owes part of its people and its property to the political organization of *societas*, but this must by no means lead to its unconditional subjugation to the ruling authority; against the long-recognized tendencies in this direction, Bonald emphasizes the family's right to independent existence and recalls that while the family can exist without the state, the state cannot exist without the family; thus, the fundamental task of the state consists in the “*conservation des familles.*”⁹⁴⁸ The background and goal of such a prioritization are evident.

For conservative social theory, it is a fundamental question whether the elementary building block of the commonwealth consists in the family or in the individual. For, depending on how this question is decided, two fundamentally different types of commonwealth emerge before our eyes. If one starts from the individual, the result is an *État variable* and a *système de l’homme*; if, on the other hand, one starts from the family, the result is *l’État fixe* and the *système de la nature*, that is, the divinely ordained fixed order.⁹⁴⁹ This latter type of commonwealth is not socially and politically upheld by all individuals without exception, but only by the *oikos* leaders, who are not mere subjects in the sense of modern statehood, that is, not equals among equals.⁹⁵⁰ Rather, only those *persons in the state* deserve to be called such who dominantly represent their particular household, while they themselves, in turn, are subordinate members of the greater household.⁹⁵¹ This, of course, does not mean that even these persons are individuals in the modern sense.

⁹⁴⁷ 268. *Des lois et des mœurs...*, Œuvres, VII, 552. Typical conservative reconstructions of the path from the family to *societas* with reference to biblical texts can be found in Jarcke, *Vermischte Schriften*, III, 37 ff, and Marwitz, I, 37, who also offers a very vivid formulation of the aristocratic *Oikos*-leader's understanding of patriarchal rule.

⁹⁴⁸ 269. *Pensées*, Œuvres, VI, 28, 30.

Friedrich Schlegel makes the same assessment of *priorities* in his early fragments (1798/9), see *Werke*, XVIII, 73, 293, 397.

⁹⁴⁹ 270. Bonald, *De la Souveraineté...*, VI = Œuvres, I, 90 ff; cf. Schlegel, *Fragmente* (1827) = *Werke*, XXII, 353: “The false state is atomistically composed of individuals; the true organic state is based on the family.”

⁹⁵⁰ 271. As Méser also noted, the concept of the “*land subject*” is not old and therefore cannot be constitutive for the polity. Against this still-young concept, Méser sets the ancient reality of the *Oikos* based on *lordship* (*Herrigkeit*), *Werke*, IX, 282f, 297, cf. 305. On the emergence of serfdom within the framework of the patriarchal extended family, see *ibid.*, X, 134, 153, 155.

⁹⁵¹ 272. Thus, Müller, *Theorie des Geldes*, 38. Jarcke expresses himself no less categorically. In monarchies, the *pure family principle* prevails; in republics, on the other hand, the *principle of society or community* dominates (i.e., several families choosing an authority). However, it is entirely wrong to consider the state as a *society* in the sense that all individuals living in a country are members of it (*Vermischte Schriften*, III, 103). Here, *state* and *society* mean the same as *societas civilis*, see below.

On the contrary: they fulfill their state-supporting role only in their binding to an *oikos* and to a *stand*—a bond that must be at least as strong, if not stronger, for the other members of the *oikos*. Just as the theory of the naturalness of *societas*, so too does the emphatic conservative emphasis on the indissoluble entanglement of the individual with family, *stand*, and people⁹⁵² serve to deprive the impulses and claims of individual reason of any foundation from the outset. Turned into a positive, this entanglement is called *solidarity*, to highlight its ethically and religiously legitimating aspect. Donoso Cortés, who uses the term, nonetheless adds that without hierarchy, not much good can be expected from solidarity. The liberal and democratic revolution simultaneously undermines solidarity and hierarchy by granting all individuals, as individuals—that is, without regard to family, *stand*, and people—equal rights; but the dissolution of the family, in particular, must ultimately also lead to the abolition of property.⁹⁵³ Here, Cortés ties into the earlier conservative critique of revolutionary and Napoleonic family law.⁹⁵⁴

The theory of the naturalness of *societas*, as well as its theoretical construction from the patriarchal family—already based on clear relations of domination—were both directed against the idea that *societas* arises from the free association of autonomous individuals; in other words, they were directed against modern contract theory. The priority this theory grants to the individual's activity in the founding process of the commonwealth meant an elevation of his calculating and planning insight, thus raising individual reason to the measure of the good and the just. From the conservative perspective, however, modern contract theory celebrated not only arbitrary rationalizing but also the sensual and worldly-oriented individual; for if individuals established a commonwealth based on private considerations and purposes, then they must have been guided by self-interest and personal advantage; secular eudaimonism and utilitarianism thus gain the upper hand, while divine law as the foundation of the commonwealth is left behind.⁹⁵⁵ Ultimately, the rejection of modern contract theory leads to the rejection of modern sovereignty and statehood. For these presuppose the direct

⁹⁵² 273. Characteristic statements in Baader, *Schriften*, 347f, 363; Marwitz, II, 2, 66. On Bonald, cf. Spaemann's analysis, *Ursprung*, 95.

⁹⁵³ 274. *Obras*, II, esp. 640 ff. Cf. Cortés' structuring of *societas* from the family according to the traditional model, *ibid.*, 521.

⁹⁵⁴ 275. Already in Burke, see, for example, *Letters on a Regicide Peace*, I = *Works*, V, 312 ff; Rehberg, *Code Napoléon*, 121 ff. On Bonald's vehement polemic against divorce law, see the analysis by Moulinié cited in footnote 266.

⁹⁵⁵ 276. The line of reasoning in Marwitz, I, 39f.

The same rejection of *utilitarianism* in connection with the rejection of contract theory is expressed in the following fragment from Schlegel (*Werke*, XVIII, 420): "*To consider the republic (= res publica) merely as a contract is as misguided as considering it as property (= as an institution for the protection of property).*"

relationship of all individuals to the state—and it is precisely this direct relationship that is retrospectively implied in the fiction that all individuals as such were involved in the founding of the state, that they stand in direct contact with it as citizens. If not all individuals are directly connected to the state—if, that is, between the ordinary member of the *oikos* and the political head of the commonwealth stands the *oikos* leader—then the founding of the state in the modern sense is inconceivable. Thus, the rejection of individualist contract theory is not merely the rejection of a specific view on the origin of the commonwealth; rather, it constitutes above all a statement about its character—a plea for *societas civilis* in structural opposition to the modern sovereign state.

From this perspective, it is not surprising that the conservatives' preferred historical argument against contract theory is the deduction of *societas* from the family, which, in turn, given the view of the family as *societas in parvo*, leads to the thesis of the absolute historical priority of *societas*. This historical priority of the family is meant to prove that the state of absolute equality among all individuals, which contract theory must assume, has never existed anywhere, as the elementary and universally binding hierarchical structure of *societas* was already fully developed within the *oikos*. The claim that the individual has never lived alone does not merely mean that he has lived with others for mutual support and assistance, but furthermore, that from the very beginning, he has found himself on a rung of a social hierarchy. If this was indeed the case, then it would be absurd to assume that someone standing higher on the hierarchical ladder would enter into a contract with his subordinates as equals in order to establish a *societas*.⁹⁵⁶ A contract-based *league of chieftains* in very early times, whereby they entered into a *Genossenschaft* (cooperative association), is not excluded, but it is disputed that this was *the first plan of nature*, for "*each chieftain formed, with all his servants and vassals, his own small state, and eventually, these independent princes formed an alliance among themselves*."⁹⁵⁷ If *pouvoir* is already institutionalized within the *oikos*, then the indispensable equality of the contracting parties for a social contract is absent. If, on the other hand, the contract is concluded before the institutionalization of *pouvoir*, then the *pouvoir* arising from this contract must be an unstable product of human arbitrariness. Through this dilemmatic formulation, Bonald seeks to

⁹⁵⁶ 277. Cf. Haller's argumentation, *Restauration*, I, 295 ff.

Haller develops his own contract theory, which in no way assumes the original existence of equal individuals but instead refers to private contracts among unequal partners for the satisfaction of shared practical needs.

Thus, the fears of some conservatives that Haller's private law approach might undermine the concept of *societas* were unfounded.

See v. Sonntag, *StaatsaufE.*, 75 ff

⁹⁵⁷ 278. Ist also bereits innerhalb des Oikos institutierter *pouvoir* vorhanden, so fehlt die zur Vertragsschließung unentbehrliche Gleichheit der Kontrahenten zueinander; wird wiederum der Vertrag vor der Institutionierung des *pouvoir* geschlossen, so muß der aus diesem Vertrag hervorgegangene *pouvoir* unstetes Produkt menschlicher Willkür sein.

demonstrate the dual impossibility of a contract either before or after the institutionalization of *pouvoir* in *societas*, highlighting the nature of this *pouvoir*, which, as God-given, must precede every contract historically and be qualitatively superior to every purely human institution.⁹⁵⁸ This is the final and strongest conservative argument against contract theory: that *societas* and authority within it are founded in the will of God and thus also in the uncreated idea of law, serving the higher purposes that God has set for mankind.⁹⁵⁹

We do not need to go into the countless, yet not very instructive variations of the main conservative arguments against contract theory. It seems more worthwhile to examine the two most important cases in which conservatives themselves make use of contract theory, in order to determine to what extent this has compromised the coherence of the conservative position, as has sometimes been claimed. In the case of Méser, our first example, it is confusing that he speaks of *societas* as a joint-stock company, thereby giving the impression that what is being discussed here is merely a useful and at any time dissolvable institution of equal individuals. However, this is nothing more than a misleading metaphor borrowed from the fashionable language of the time. For the word *share* in Méser does not symbolically stand for a bourgeois-utilitarian view of the social phenomenon but merely denotes the concrete characteristic that each member of *societas* originally possesses.⁹⁶⁰ Yet, this characteristic differs significantly from a share in a joint-stock company due to its uniqueness and differentiating effect, whereas shares in the same joint-stock company are quantitatively and qualitatively identical. That Möser's unfortunate metaphor does not imply any concession to individualistic contract theory is already evident from his explicit commitment to the topos of man's natural social determination.⁹⁶¹ He only develops his own contract theory in order to deprive absolute monarchs and other enemies of *societas civilis* of the theoretical basis for using contract theory.⁹⁶² Thus, he works out the "good" contract in order to set it against the "bad" one. Accordingly, his contract theory aims to deny a nation's right to create its constitution *ex nihilo*; it does not assume a union of all individuals in their fundamental equality for the establishment of a *societas* but rather asserts the opposite—that this union was the work of the great *oikos* leaders, the first conquerors and owners of a land, namely the hereditary nobility and all those who

⁹⁵⁸ 279. Jarcke here criticizes Méser but misunderstands him, see *De la Souveraineté...*, III = *Œuvres*, I, 52f.

⁹⁵⁹ 280. Cf. Stahl, *Rechtsphilosophie*, II, 2, 170

⁹⁶⁰ 281. On the right of humanity insofar as it can serve as the foundation of a state (1791) = *Werke*, IX, 159.

Even faith in Christ is here called a *stock-property*, granting its possessor access to the Kingdom of God.

⁹⁶¹ 282. *Patriarchalische Phantasien*, III, 20 = *Werke*, VI, 64.

⁹⁶² 283. *Werke*, IX, 366.

possessed *true* landed property. Significantly, cities and burghers had no share in this contract. A second, later contract regulates the relationship between the first founders of *societas* and later-borns or newcomers; the existence of this second contract explains why not all inhabitants of a country have the same rights, so that, entirely independent of the will of the numerical majority, they are also not entitled to reshape *societas* together.⁹⁶³ To further solidify social hierarchy, Möser later introduced the additional assumption that the distinction of estates was already foreseen in the first contract, although it was only developed through the second.⁹⁶⁴ In any case, the types of contracts developed by Möser can either be understood as *pacta societatis* in the scholastic sense⁹⁶⁵ or as *pacta subiectionis*, meaning they are contracts that do not belong to the conceptual world of modern natural law but rather to the Aristotelian-scholastic tradition and the old estate-based practice. Möser's equation of laws with contracts⁹⁶⁶ provides further evidence of his estate-based understanding of contracts.

The same Aristotelian-scholastic background and the same estate-based understanding of contracts explain Burke's contract theory. The main polemical target here, too, is modern individualistic contract theory, which, in Burke's view, constantly exposes *societas* to the danger of dissolution.⁹⁶⁷ At a time when the concept of contract was already at the center of socio-theoretical and political debates, Burke seeks to construct the "true" social contract—or rather, to reconstruct it from traditional materials—and thereby ideologically neutralize the "false" contractual understanding of the enemy.

In doing so, he denies the social contract any individualistic, rationalistic, and voluntaristic character, so that the impression must arise that the only purpose of discussing an existing binding contract is to emphatically deny the right (including that of the majority) of individuals to withdraw from it and establish a new one. What matters here is not the process of forming the contract but its indissolubility, i.e., the safeguarding of the permanence of the existing order. Some conservatives thus invert the concept of contract into its opposite after seemingly adopting it at first.⁹⁶⁸

As Burke explains, the constitution of a country or *civil society* may "in many cases" have originated on the basis of a contract or a "voluntary act," but from that moment on, there is no longer any power that could undo what has been contractually established. This is especially the case since later generations, by the

⁹⁶³ 284. When and how may a nation change its constitution? (1791), and: On the rights of Mr. K. (1792) = *Werke*, IX, esp. 180f, 184f, 187f.

⁹⁶⁴ 285. How the difference of estates... (1793) = *Werke*, IX, 193.

⁹⁶⁵ 286. See above, Chapter II, Section 4b.

⁹⁶⁶ 287. *Werke*, IX, 344.

⁹⁶⁷ 288. *Appeal...*, *Works*, IV, 184.

⁹⁶⁸ 289. See the remarks on Gentz in Docks, *Souveränität*, 102.

mere fact of their birth—which places them without prior consent into a particular network of rights and obligations—have effectively accepted the content of the concluded contract.⁹⁶⁹ Burke leaves it unclear whether the contract he assumes concerns the foundation of *societas* as such or only its form of government. One reason for this theoretical negligence is undoubtedly that his interest lies solely in the indissolubility of the contract. Since he also considers the existing traditional form of government to be suited to meeting the higher ethical demands of *societas civilis*, the distinction between government form and *societas* as such becomes irrelevant to him: for him, the revolution destroys *societas* itself by destroying the existing form of government. However, if the precise scope of the contract appears secondary and remains unclear for this reason, Burke, on the other hand, leaves no doubt about its nature. His contract bears no resemblance to those that, for example, establish commercial companies. Rather, it is based on a partnership that comes into being for the achievement of higher ethical goals and can only fulfill its tasks over long periods of time—so that it must encompass the dead, the living, and the yet unborn. At the same time, due to its purpose, it remains constantly and consciously anchored in the divine order. If this is the case, then ultimately, *contract* means nothing other than the traditionally existing constitution of the commonwealth, which exists independently of the will of individual persons and generations in historical time.⁹⁷⁰ Thus, the concept of contract is stripped of its modern natural law content, and an important term from the revolutionary vocabulary is deprived of its aggressive significance.⁹⁷¹

The reader will have noticed that in the preceding discussion of conservative social-theoretical principles, we have avoided the term “state” as much as possible. By doing so, we have sought to prevent confusion between the conservative concept of the state and the modern one, especially since conservatives themselves have taken care to distinguish clearly between the two, even and especially when they—following common practice in Germany—used the same word (“state”) for both concepts. Thus, they speak of the “state” in a positive sense when they mean *societas civilis* and in a negative sense when referring to the modern sovereign state. They were so aware of the fundamental structural and historical difference between these two concepts of the state that they anticipated the research findings of our century on this central issue. For example, we read in the *Staatslexikon* that the term “feudal state” contains a “conceptual confusion,” as there was no state in

⁹⁶⁹ 290. *Appeal...*, *Works*, IV, 162, 165. Already in 1765, Burke emphasized that the functioning of a *societas* does not depend on its explicit approval by individuals (*Works*, I, 6f).

⁹⁷⁰ 291. See the central passage in *Reflections*, *Works*, III, 359. Cf. in general the excellent analysis of Burke’s contract theory in Hilger, *Burke*, esp. 72f, 84f, 91ff, 100f, 109f.

⁹⁷¹ 292. A characteristic example of the conservative attempt to strip the contract concept of any revolutionary connotation is Coleridge’s definition: “Contract is merely synonymous with the sense of Duty”, *The Friend*, *Collected Works*, IV, 173.

the modern sense in the Middle Ages. The difference between the feudal and the modern state lies in the issue of sovereignty—namely, that “the state of the Middle Ages, if one had even known the term in its modern sense at the time, was a real union for land and people, whereas according to modern understanding, land and people exist for the concept of the state”—in other words, “the pre-modern state was a union with real purposes” (protection of faith, peace, rights, and freedoms), “the modern state is a personified product, in which private rights only apply insofar as... state omnipotence permits them.⁹⁷²” The state in the pre-modern conservative sense is thus not the all-powerful authority that stands sovereign over the life of *societas*, its rights, and freedoms, but rather the life of *societas* itself—the point at which the essence of a multidimensional yet homogeneous structure is condensed. It is “the community of people elevated to an independent organic personality, the living organization of the people's life and its culture.”⁹⁷³

The modern state now subjects the rights and freedoms of *societas* to its sovereign omnipotence and ultimately dissolves *societas* by invoking a higher state purpose to which everything else must be subordinated; hence the conservative aversion to this concept of state purpose.⁹⁷⁴ Indeed, this concept in itself suggests the existence of a higher instance that exists exclusively for the state purpose and must enforce it against the particular and self-interested concerns of *societas*, implying a separation between state and society due to their qualitative difference in nature and purpose. In contrast, conservatives, who strive to preserve the monistic structure of *societas*, emphasize that there are only quantitative, not essential, differences between government or state power and the “so-called private-social relations.”⁹⁷⁵ For conservatives, it is therefore crucial not to reduce

⁹⁷² 293. VII, 378f (Article Feudal).

⁹⁷³ 294. *Ibid.*, XIX, 578 (Article State). Cf. Joachimsens' remarks on Ranke's concept of the state, *Psychologie*, 589.

⁹⁷⁴ 295. *Ibid.*, 579; Vollgraff, *Täuschungen*, 35. Following Lancizolle, Vollgraff calls the modern concept of the state a *mystical thought-thing*, since in reality, only states (= estates) exist. Cf. our remarks on the meaning of the conservative polemic against the concept of the *common good* in Section 2 of this chapter and note 365.

⁹⁷⁵ 296. Typical for Haller, *Restauration*, I, 444 ff. Cf. Haller's objections to Bodin's definition of the state, *ibid.*, 464. Jarcke shares the same view as Haller when he writes that the state is not exclusively family or society but rather *a social relationship that encompasses and integrates both forms* (*Vermischte Schriften*, III, 93). This does not mean that the state is something more and something different from society, but rather that it coincides only with that society (and thus is a state in the premodern sense) which consists of families; if, on the contrary, society consists of individuals, and thus the dissolution of the *societas civilis* is complete, then only a state in the modern sense can stand in opposition to this society. Incidentally, Jarcke uses the term *state* synonymously with *societas* when he, for example, describes patrimonial and feudal lordships as *perfect states* (= *societates perfectae*) (*ibid.*, 48). He also uses the terms *society* and *constitutional order of society* synonymously with *republic* (= *res publica*) (*ibid.*, 56, 57).

the concept of the state to that of administration and government. They thus accuse the “absolutists” of misleadingly using the term “state” instead of “government,”⁹⁷⁶ and beyond that, they deny that despotism can be considered a state (in their sense); for while despotism has government and administration, it lacks the rights and freedoms that constituted the essence of *societas*.⁹⁷⁷ As early as 1796, Bonald had already distinguished between “government” and “constitution” conceptually and defined despotism as a government without a constitution.⁹⁷⁸ Among English conservatives, the traditional⁹⁷⁹ distinction between “government” and “state” (= *societas*)⁹⁸⁰ was also well known, as was the dual meaning of “state.”⁹⁸¹

A. Müller provides an illustrative comparison of the pre-modern and modern concepts of the state from a conservative perspective. He, incidentally, uses the terms “state” and “society” synonymously⁹⁸² when he refers to the former as *societas civilis*, describing it as “the intimate connection of all physical and intellectual needs, of all physical and intellectual wealth, of all internal and external life of a nation” or as “the totality of human affairs, their integration into a living whole.”⁹⁸³ After recalling the etymological connection between *Stand* (“estate, status”) and *Staat* (“state”), Müller reformulates the topos of the Aristotelian tradition and argues that the “complete human” can only develop insofar as he belongs to an estate (*Stand*) and has an estate. Due to his “personal estate,” i.e., “the sum of his relationships with fellow human beings,” a person is in an estate, and due to his “material estate,” i.e., “the sum of his relationship to things or his property,” he has an estate. From this two-dimensional nature of the complete human arises the hierarchical multidimensionality of the true state: for every complete human is the head of an estate or a state and simultaneously a member of one, so that in the organic state, which consists of infinite states, “no one is

⁹⁷⁶ 297. Jarcke, *ibid.*, I, 172.

⁹⁷⁷ 298. Marwitz, II, 2, 58. Marwitz uses the terms *republic*, *commonwealth*, and *state* synonymously (*ibid.*, 68ff). Cf. 117, where *republic* or *commonwealth* means the same as *limited monarchy* and *estate-based constitution*.

⁹⁷⁸ 299. *Théorie du Pouvoir*, I, 1, 9 = *Œuvres*, III, 94.

⁹⁷⁹ 300. See above, Chapter II, Section 4b.

⁹⁸⁰ 301. See, for example, Burke, *Reflections*, *Works*, III, 310, 361.

⁹⁸¹ 302. See, for example, Coleridge, *Church*, IX, X = *Collected Works*, X, 77, 82.

⁹⁸² 303. See, for example, *Elemente*, 40.

⁹⁸³ 304. *Ibid.*, I = p. 27, 33. Aris does not see this, as he apparently—like many other commentators—fails to grasp the ambiguity of the concept of the state among conservative theorists. Thinking exclusively in terms of the modern state, he dismisses Müller for supposedly developing a theory of the state without a state or for failing to grasp the legal personality of the state (Müller, 64). Müller himself makes the opposite mistake when he focuses exclusively on the premodern concept of the state and from there attacks the liberal view that the state is a *necessary evil* (*Elemente*, II = p. 23). But here, *necessary evil* refers to government or state bureaucracy, not to social life as a whole.

absolutely free, no one sovereign." The exact opposite is the case in the modern state, and hence "the meaning in which the currently prevailing theories use the word 'state' is improper and figurative." For here, the organic structuring of the state into states or estates is leveled, and in its place is set an unknown concept of sovereignty. These theories of the state do not want to recognize "a state within the state, that is, a state as a system of states"; their state is "an entirely unconditional sovereign entity." Here, we encounter "the pure state, the archetype of the state, in which, according to the doctrines of the time, all individual states and estates were supposed to disappear."⁹⁸⁴ This almost ideal-typical juxtaposition of the two types of state leaves nothing to be desired in terms of clarity.

In their abhorrence of the demonic-brutal form of the modern state, conservatives sometimes go so far as to deny the state as a political organization of the commonwealth any ethical value whatsoever. In doing so, they (silently) renew the Augustinian tradition and argue like some late Scholastics:⁹⁸⁵ the state is merely profane, a product of the Fall, and therefore it must submit to higher spiritual authorities (i.e., concretely: the commands of the Church). Thus, Friedrich Schlegel writes that the state is "founded on the imperfection of natural law" and exists merely to ensure the peaceful execution of worldly affairs; it is not an end but "merely a means for the highest ultimate purpose of humanity," the realization of which, however, is exclusively the task of the Church.⁹⁸⁶ Since the worldly affairs with which the state deals often stand in opposition to this spiritual ultimate purpose, the conclusion naturally followed that "the spirit of Christianity in political terms" would be "a general... opposition to the state altogether"; "the state must ultimately disappear entirely and completely merge into the Church; only the family remains, until finally all of humanity... becomes one great family."⁹⁸⁷ However, until the realization of this universal spiritual purpose through the equally universal spiritual institution of the Church, a state must exist—and if there must be one, then preferably a good one rather than a bad one. For while the state is indeed an "invention of Nimrod"—in this case, it is the "anti-state" or "the ever-hungry and all-consuming Leviathan"—it can simultaneously also be "the first counter-institution against Nimrod" when peace and justice prevail within it. Such a state serves, as best it can, the higher and further purposes, whereas the "anti-state" "seeks solely and exclusively the greatest accumulation of material power or the highest intensification of absolute violence."⁹⁸⁸ The anti-state,

⁹⁸⁴ 305. *Von der Notwendigkeit*, 171f, 172f, 176.

⁹⁸⁵ 306. See above, Chapter II, Section 4b.

⁹⁸⁶ 307. *Kölner Vorlesungen*, X–XII = *Werke*, XIII, 121, 143, 157, 169. In other passages, this same critique of the state from the perspective of higher spiritual goals takes on a cultural-aesthetic turn; see, for example, *Lectures on Modern History*, XIX–XXI = *Werke*, VII, 396f.

⁹⁸⁷ 308. *Fragmente...*, *Werke*, XXII, 47, 224. In this sense, Maistre is justified (*ibid.*, 232).

⁹⁸⁸ 309. *Signatur...*, II = *Werke*, VII, 547f. Cf. *Fragmente...*, *Werke*, XXII, 6f, 7.

therefore, coincides with the modern state, which has sinfully dedicated itself to this world. And when Schlegel demands the retreat of the “negative,” exclusively worldly state in favor of a state “founded on a divine positive,” he expresses the wish for the abolition of the modern secular state. He considers it disastrous to elevate this state to an absolute value and to pursue it with corresponding zeal, and he also observes that there is currently a confusion of concepts, due to which the bad state is imperceptibly replacing the good one.⁹⁸⁹ From the standpoint of his theological inquiry, Schlegel thus grasped the distinction between the pre-modern and modern state no less clearly than Müller did by means of sociological categories and the problem of sovereignty.

Elsewhere within the conservative spectrum, attempts emerged to acknowledge the separation of state and society that had taken place, but to integrate the narrower concept of the state—which had taken shape precisely in and through this separation—into a broader framework alongside the new concept of society, thereby reversing the separation or assigning it merely technical significance. This is how one can summarize Stahl’s position, who—fully aware of the revolutionary origins and use of the new concept of society—⁹⁹⁰admits the distinction but not the separability of state and society; for the political and the social “interpenetrate each other everywhere without a sharp boundary and are everywhere in mutual interaction” within an overarching totality.⁹⁹¹ Stahl calls this “community for the totality of life purposes” the “state,” but he also speaks of a “state in a narrower sense,” which is understood in its “distinction” from society (as the sum of all communities that “serve not so much for common rule according to higher ideas as for mutual satisfaction of needs”). Following the conservative tradition, Stahl’s theory of the state does not revolve around the narrower but around the broader concept of the state, and thus it also aims to be a theory of society and the community of states; it intends, therefore, to “simultaneously encompass the properly political, the social, and the international domain.”⁹⁹² This traditional tendency is also evident in that Stahl defines the state not exclusively by its sovereign power but above all by its administration of law and justice. Since the state is “not a humanly made thing, but something given in the order of the world,” its essence lies “first and foremost in the administration of the commandments that God has placed over human conditions,”⁹⁹³ that is, in the fulfillment of a moral task.⁹⁹⁴ At a time when society was becoming increasingly economized, emphasizing the moral purpose of the state (in the traditional sense)

⁹⁸⁹ 310. *Signatur...*, III = *Werke*, VII, 554f.

⁹⁹⁰ 311. *Rechtsphilosophie*, II, 2, 51.

⁹⁹¹ 312. *Ibid.*, 526.

⁹⁹² 313. *Ibid.*, 156.

⁹⁹³ 314. *Ibid.*, 132f, 134.

⁹⁹⁴ 315. *Ibid.*, 131, 140.

served to counter such tendencies and, by limiting society in this way, to also achieve a corresponding limitation of the state (in the new sense). Here, the state is not supposed to be the ultimate extrapolation of the political, which has detached itself from the social and become autonomous, but rather the traditional unity of all areas of the commonwealth. However, the mere admission of the “distinguishability” of the political from the social—or the fact that this question arose at all—shows how problematic and precarious this unity had become. Therefore, Stahl, in his persistent and often acrobatic attempts at mediation, inevitably ran into significant difficulties—for example, when, despite acknowledging the moral purpose of the state, he left its full realization to the individual, thereby reintroducing through the back door the fatal separation between the private and the public sphere—⁹⁹⁵ although, as we shall soon see, he neither wished to accept its premises nor its implications.

The conservative rejection of the separation between private and public follows necessarily from the rejection of the secular modern state. For the modern state instituted or promoted precisely this separation because it saw the world as the exclusive domain of its sovereign activity and demanded from the subject nothing but adherence to legality, while leaving the pursuit of salvation or the realization of morality to the conscience of the individual. Thus, when conservatives deny that the state (in their sense) should concern itself solely with worldly affairs, and when they affirm the moral task of the *societas*, they mean that there is no morality distinct from legality and no private search for salvation; rather, morality and salvation are equally safeguarded or at least mediated through public institutions. The individual must be anchored in the state in every respect if the state is all-encompassing—if it coincides with the *societas*. Private and public law are by their very nature identical because both are rooted in divine law—and it is precisely in this sense that the moral task of the state is defined.⁹⁹⁶ Stahl also ties his concept of the public to the moral essence of the state, thereby questioning the modern linkage of the public sphere to the state (in its new sense); for if public and state authority are identical, then the latter must derive from the public *par excellence*, that is, from the people. In this way, Stahl seeks to avoid Haller’s mistake, who declared state authority a private matter of the prince in order to avoid deriving it from the people as the ultimate reference point and bearer of the public. Yet in doing so, as Stahl rightly observes, Haller had adopted the same concept of the public as the revolutionaries.⁹⁹⁷ The only way to escape the revolutionary logic of state theory, then, seemed to be the denial not only of the separation but also of the very existence of private and public as such. Thus, E.L. von Gerlach reproached his old mentor Haller, arguing that in his otherwise justified fight against the imposition of the public (i.e., the modern state), he was

⁹⁹⁵ 316. *Ibid.*, 136f.

⁹⁹⁶ 317. Müller, *Elemente*, II = p. 24 ff; *Von der Notwendigkeit*, 179.

⁹⁹⁷ 318. *Rechtsphilosophie*, I, 565f; *Parteien*, 295.

advocating for private rights and freedoms without realizing that concepts such as “public” and “private” were neither Germanic nor Christian but rather “pagan, Roman, and republican.” Gerlach stated: “I no longer say: ‘The king is a wealthy private man,’ but rather: ‘The private man is no private man, but a small king,’ and in doing so, I erase not only the opposition between ‘private’ and ‘public, publicus’... I erase the semblance of egoism, which has done so much damage to your restoration of political science...”⁹⁹⁸

The same issue applies to the relationship between state and religion. The rejection of the separation between private and public implied a plea for the closest interweaving of religion and state (*societas*), since the (modern) state, which allowed this separation, relegated religion (and morality) to the private sphere; in contrast, in a state subject to divine law, religion (and morality) necessarily became a public matter, leaving essentially nothing to the conscience of the individual as such. The subjugation of the *societas* to divine law had to theoretically and practically prohibit the privatization of religion and, consequently, the separation of private and public, which arose not least from the struggle over the privatization of religion. Conservatives recall that the rise of modern statehood was accompanied and partly promoted by the declaration of religion as a private matter, and their spontaneous return to the situation and problems of the 16th century makes it understandable why they had to advocate, three centuries later, the same views that had once been defended against the *Machiavellists*—for instance, the idea that religion should not be a political instrument of power.⁹⁹⁹ In their eyes, state (*societas*) and religion (church) are essentially inseparable parts of a unified whole.¹⁰⁰⁰ “Education, civilization, art, science, commerce, family, state—all belong to the kingdom of God.”¹⁰⁰¹ Only through this interweaving of *societas* and religion could the sanctioning of social institutions be achieved in a way that guaranteed their permanence,¹⁰⁰² and the divine origin of authority also found visible proof in this interweaving.¹⁰⁰³ Thus, the fate of religion, as conservatives often emphasize, is closely tied to that of politics, meaning that positions on religion always go hand in hand with specific political views (and vice versa), and theological errors bring about political calamities (and vice versa).¹⁰⁰⁴ Religious tolerance is therefore not merely rejected because it presupposes the separation of

⁹⁹⁸ 319. *Nachlass*, I, 29; II, 658. Cf. Brunner, *Wege*, 98, 147.

⁹⁹⁹ 320. See the typical argumentation in La Mennais, *Essai*, I, Chapters 2–3.

¹⁰⁰⁰ 321. Burke, *Speech on the Petition of the Unitarians* (1792) = *Works*, VII, 43.

¹⁰⁰¹ 322. E. L. v. Gerlach, *Königreich*, Sp. 387.

¹⁰⁰² 323. Maistre, *Considérations...*, V = *Œuvres*, Sp. 41.

¹⁰⁰³ 324. Baader, *Schriften*, 381, 37 (on Bonald).

¹⁰⁰⁴ 325. Bonald, *De l’unité religieuse...*, *Œuvres*, VII, 170;

La Mennais, *Essai*, I, 394; cf. Burke (already in 1765), *Works*, I, 4f.

Cf. below, Section 6a.

private and public, but also because it undermines the sociopolitical function of religion; tolerance implies religious indifference and thus the degeneration of that conviction which upholds divinely sanctioned institutions.¹⁰⁰⁵ In a certain sense, even religious disputes—at least insofar as they testify to an existential interest in higher matters—are preferable to tolerant indifference.¹⁰⁰⁶ Based on these same premises, conservatives must reject the independence or neutrality of science. If the *societas* is based on religion and if the separation of private and public is unthinkable and impracticable, then no scientific activity can exist and thrive apart from the all-encompassing life of the *societas* and apart from religion or theology.¹⁰⁰⁷ The unity of all ideological forms under the aegis of religion should correspond to the unity of all aspects of the political and social within the *societas*, which as a whole is subject to the divinely given idea of law. Conservatives know that the separation of the arts and sciences from religion is a historically recent phenomenon,¹⁰⁰⁸ which went hand in hand with the equally lamented “*highly dangerous*” separation of the clerical and learned estate.¹⁰⁰⁹

The concrete meaning of the conservative insistence on the inseparability of *societas* and religion in the 19th century was, by and large, the same as in the 16th century: namely, to affirm the binding nature of divine law (in its traditional interpretation) for government authority and thus to place an insurmountable obstacle in the path of the sovereignty of the modern state. Against absolutist or revolutionary “despotism,” conservatives—Baader, for instance—contrasted Christian “love,” which alone could unite the *societas* into a harmonious whole.¹⁰¹⁰ *Despotism* and *love*, or modern statehood and religion, were mutually exclusive—that is, the rise of one meant the decline of the other, and vice versa. Cortés sought to frame this relationship as a “*ley de la historia*” (law of history), which he summarized in an analogy: if the thermometer of religion rose, then the thermometer of political repression would fall, and vice versa; thus, the social weakening of religion since the beginning of modernity must have been

¹⁰⁰⁵ 326. See especially Bonald, *Réflexions philosophiques sur la tolérance...*, *Œuvres*, VII, esp. 154f.

¹⁰⁰⁶ 327. See, for example, Coleridge, *Lay Sermon*, *Collected Works*, VI, 199.

¹⁰⁰⁷ 328. Müller, *Elemente*, II = p. 32;

Cortés, *Obras*, II, 500f;

Cf. L. v. Gerlach, *Denkwürdigkeiten*, I, 402.

¹⁰⁰⁸ 329. Baader, *Schriften*, 84.

¹⁰⁰⁹ 330. Schlegel, *Die Entwicklung der Philosophie (Kölner Vorlesungen)*, XI = *Werke*, XIII, 148.

Cf. Coleridge, *Talk* (April 21, 1832), p. 158:

“There have been three silent revolutions in England: first, when the professions fell off from the church; secondly, when literature fell off from the professions; and thirdly, when the press fell off from literature.”

¹⁰¹⁰ 331. Baader, *Schriften*, 58f.

accompanied by an enormous increase in political tyranny.¹⁰¹¹ However, the unpleasant reality for conservatives was that, given the collapse of the religious foundation of *societas*, they found themselves forced to compensate for what was lacking in religion by strengthening and rationalizing the organization of political coercion. Bonald deemed it wise to supplement his observation that in every *societas*, *pouvoir* was divided in varying proportions between *religion* and *gouvernement* with the advice: “*Si le frein de la religion se relâche, il faut renforcer l'action du gouvernement*”¹⁰¹² (“If the restraint of religion slackens, government action must be strengthened”). And Baader, who had so emphatically contrasted love/religion with despotism and had even criticized those conservatives who did not believe firmly enough in religion and love and thus “*sought refuge in the desperate measure of the absolute rigorism of political power,*” nevertheless could not avoid recognizing “*the necessity*” of strengthening government authority in order to prevent the imminent dissolution of *societas*.¹⁰¹³

Thus, after 1789, while it was still relatively easy to portray the unity of *societas* and religion on paper, maintaining or restoring this unity in practice became far more difficult, given the almost universal shifts in the relationship between state and church in favor of the former, as well as the confessional division that also manifested within the conservative camp. Conservatives were initially divided over the extent and form of the frequently desired ecclesiastical or papal intervention in state affairs.¹⁰¹⁴ Secondly, the principle of the unity of state and church was sometimes subordinated to considerations of expediency or even questioned altogether when the expected outcome of this unity was either the subjugation of the church to the overwhelming power of the state¹⁰¹⁵ or the state’s preferential treatment of one confession at the expense of another.¹⁰¹⁶ And finally, the divide between Protestants and Catholics further weakened the conservative position. The shared enmity against the Revolution and the priority of the struggle against it forced conservatives, at least temporarily, to set aside their confessional preferences on both national and international levels. Nevertheless, the

¹⁰¹¹ 332. *Discurso sobre la dictadura*, Obras, II, 316 ff; cf. already Baader, *Schriften*, 160f, 268f.

¹⁰¹² 333. *Pensées*, *Œuvres*, VI, 26.

¹⁰¹³ 334. *Schriften*, 73, 263.

¹⁰¹⁴ 335. There were even disagreements on this issue among ideological allies Bonald and de Maistre (see Moulinié’s analysis, *Bonald*, 310, 416f), not to mention Montlosier’s vehement rejection of any *ultramontanism* and *Jesuitism* (*Mémoire*, esp. 74f).

Schlegel presents a middle-ground position in his *Kölner Vorlesungen*, XII = *Werke*, XIII, 171. On the conflicts between *Gallicanism* and *Ultramontanism* during the Restoration era, see Mellon, *Political Uses*, 112.

¹⁰¹⁵ 336. Thus, for example, La Mennais (see Gurian, *Ideas*, 142f) or E. L. v. Gerlach (*Nachlass*, I, 113).

¹⁰¹⁶ 337. Thus, for example, Radowitz, who even grants persecuted Catholics a right to passive resistance (*Ausgewählte Schriften*, II, 378; III, 178).

predominance of the Catholic element within the conservative camp as a whole inevitably brought the concept of conservatism closer to (politically interpreted) Catholicism than to Protestantism. This was reflected in the conservative genealogy of the Revolution, which frequently expressed the view that “*Reformation... and Revolution are logically, morally, and factually one and the same.*”¹⁰¹⁷ The reasoning behind this was that Protestantism had made the conscience of the individual the judge of religious matters, which meant that the transfer of this principle to the socio-political sphere was inevitable.¹⁰¹⁸ Protestantism had fostered human pride and hubris,¹⁰¹⁹ placed private religion alongside private rights and private interests,¹⁰²⁰ and unconditionally recognized the modern state principle, leading to a “*Protestantism of the state*” that fragmented the *civitas christiana* into sovereign states, while the “*Protestantism of knowledge*” had given rise to the Enlightenment.¹⁰²¹ The memory of the writings and influence of Protestant “*revolutionaries*” of early modernity completed this grim picture.¹⁰²² Regarding this specific point, Protestant conservatives had a relatively easy task, as they could point to the Catholic *Monarchomachs* of the 16th century and the allegedly Jesuit origins of the doctrine of popular sovereignty.¹⁰²³ Moreover, they could claim that Protestantism, in contrast to Catholic theocracy—which easily turned against crowned rulers—and also in contrast to patriarchalism—which fragmented and dissolved authority—had theoretically secured the divine sanctioning of authority and the *monarchical principle* at a particularly dangerous time.¹⁰²⁴ Nonetheless, the explicit Protestant break with a long religious tradition was difficult to justify in the eyes of conservatives. Stahl attempted this justification by arguing that, in the church, what was highest was not historical right or traditional constitution, as in the state, but rather a supra-historical and eternal legitimacy.¹⁰²⁵ However, this was precisely the *naturrechtlich-revolutionäre* (natural law-revolutionary) position in political matters, and thus neither this argument nor the assertion that rationalism was *not* intrinsic to Protestantism¹⁰²⁶ was capable of winning over conservative Catholics to the Protestant side. In fact, quite the opposite often occurred: conservative Protestants,

¹⁰¹⁷ 338. Thus, Gentz in a letter to Brinckmann, November 8, 1824 = *Briefe*, II, 342.

¹⁰¹⁸ 339. Bonald, *De l'unité religieuse...*, *Œuvres*, VII, 187; cf. Moulinié, *Bonald*, 181 ff.

¹⁰¹⁹ 340. Baader, *Schriften*, 136, cf. 71.

¹⁰²⁰ 341. Müller, *Elemente*, XV = p. 183.

¹⁰²¹ 342. Schlegel, *Philosophy of History*, XVII = *Works*, IX, 387 f., 392 ff.

¹⁰²² 343. Radowitz, *Fragments*, II = *Selected Writings*, III, 111.

¹⁰²³ 344. Leo, *Letters*, 41; Stahl, *Protestantism*, 24, 109, *Parties*, 61; cf. Scheel, *Berlin Political Weekly*, 35.

¹⁰²⁴ 345. Stahl, *Protestantism*, 10 f., 43. *Ibid.*, 77 f.

¹⁰²⁵ 346. *Ibid.*, 77f f.

¹⁰²⁶ 347. Leo, *Letters*, 124.

unsettled by *rationalist* or *constitutional* deviations among their coreligionists and ideological allies, developed certain sympathies for Catholicism—even to the point where they could “calmly endure the suspicion of Romanism.”¹⁰²⁷

The demanded unity of *societas* and religion was intended to limit the sovereignty of the modern state not only from within but also from without. For it kept alive the memory of the pan-European *civitas christiana*, which had long since died but was rediscovered during the “general European civil war”¹⁰²⁸ that broke out in 1789, with the highly practical aim of justifying the right of intervention against revolutionary or revolutionizing states. The system of international law that had developed since the 16th century and was more or less based on the modern state principle was evidently unsuitable for such a justification, since, from a conservative standpoint, the pre-1789 order and peace were “merely negative” and the equilibrium of that time was “merely mechanical.”¹⁰²⁹ The tendency toward counterrevolutionary, Christian universalism arose and grew in parallel with the political and military alliance of the European crowns against revolutionary France.¹⁰³⁰ Burke spoke of the “great Christian Commonwealth” and praised “the Christian World and the Republic of Europe” or “the Community of Europe”, which was based on a shared religion and institutions “drawn from the Germanic customary”—¹⁰³¹ and he demanded that “the Christian states directly intervene in France” to provide aid to the “healthy” part of the nation and at the same time to protect themselves preventively.¹⁰³² Bonald likewise recognized the right of counterrevolutionary powers to intervene and believed that through the pan-European solidarity of the counterrevolution, “un nouveau droit des gens” (a new law of nations) would emerge, bringing about “la république chrétienne” (the Christian republic).¹⁰³³ This new law of nations was clearly meant to overcome what Schlegel had called the “merely mechanical” character of the system of sovereign states by subjecting states to specific rules of conduct, which, as Gentz explained, the entire “European Republic” had to follow. The principle of non-intervention was therefore “wrong in its unlimited generality” if the internal developments of a state endangered the balance of the European Republic. While the possibility of abuse of the right to

¹⁰²⁷ 348. Thus, E. L. v. Gerlach, *Notes*, I, 419, cf. 244, 256 (on the Cologne events); *Nachlass*, I, 31 (Stahl’s error), II, 796, 938.

¹⁰²⁸ 349. According to an expression by Fr. Schlegel, *Philosophy of History*, XV = *Works*, IX, 350.

¹⁰²⁹ 350. Thus, Schlegel, *Signature...*, I = *Works*, VII, 500.

¹⁰³⁰ 351. Beik, *French Revolution*, 109.

¹⁰³¹ 352. *Letters on a Regicide Peace*, I and IV = *Works*, V, 318 ff., and VI, 30, 61.

¹⁰³² 353. *Letter to a Member of the National Assembly*, *Works*, IV, 16. Cf. his excerpts from Vattel, IV, 471 ff.

¹⁰³³ 354. *Observations...*, *Œuvres*, VII, 664, 666.

intervene could not be ruled out, it had to be accepted.¹⁰³⁴ This frank conservative claim to the right of intervention, justified by reference to the higher rules of the *respublica christiana*, was understood as a practical expression of opposition to the doctrine of *Staatsräson* (reason of state), which regarded the state as the highest and therefore inviolable good. Since this doctrine of *Staatsräson* was in turn considered the pinnacle of Machiavellianism and political amorality, the simultaneous endorsement of the right of intervention and the unity of ethics and politics appeared, from a conservative perspective, neither a logical nor a moral contradiction. Burke and Bonald, two prominent advocates of the right of intervention, emphasized that *the principles of politics in their essence must be the same as those of morality* and that *politics must be the morality of governments just as morality must be the politics of individuals*.¹⁰³⁵ When Burke denounced “Machiavellian politicians” and “Machiavellian policy”,¹⁰³⁶ when Radowitz rejected the maxim “*the end justifies the means*” in the same breath as the doctrine of *Staatsräson*,¹⁰³⁷ when Stahl condemned the modern separation of natural law and politics and praised their unity in Aristotle—¹⁰³⁸ then this was, word for word (*ipsis verbis*), a repetition of the first act of the drama that had begun in the 16th century. In the final act—or rather, the last scene—of this same drama, E. L. v. Gerlach still reproached the foreign policy of Bismarck, saying “*the Ten Commandments were unbearable to him*.”¹⁰³⁹ As early as 1853, he had admonished him “*to hold fast regarding Austria, that the world is no longer divided into states but into parties*.”¹⁰⁴⁰ Because of their adherence to the ideal of the *civitas christiana*, some conservatives thus had to attach greater significance to horizontal, ideological divisions than to vertical, state or national ones. Ironically, revolutionary social democracy did exactly the same in its struggle against bourgeois nationalism, and it, too, invoked the unity of ethics and politics—though it assigned entirely different meanings to these terms.

From the conservative understanding of *societas* described above, it is clear what conservatives had to criticize about the modern state, which had been fully realized by the Revolution. Whereas the structure of *societas* had been monistic (due to the absence of a qualitative distinction between government authority and

¹⁰³⁴ 355. Gentz, *On the Origin*, 19–22, cf. 151 f. as well as *Letters*, III, 1, 245 f. Schlegel also demands obedience, discipline, and subordination in the ordered Christian state system, *Fragments* (1820) = *Works*, XXII, 5, cf. 14.

¹⁰³⁵ 356. Burke, *Letters on a Regicide Peace*, I = *Works*, V, 325; cf. already the letter to W. Markham from after November 9, 1771, *Correspondence*, II, 282.

Bonald, *On Philosophy and Morality*, *Œuvres*, VII, 111; *Observations...*, *Œuvres*, VII, 664.

¹⁰³⁶ 357. *Reflections*, *Works*, III, 244, 338.

¹⁰³⁷ 358. *Fragments*, I = *Selected Writings*, I, 387, 396.

¹⁰³⁸ 359. *Legal Philosophy*, I, 330.

¹⁰³⁹ 360. *Notes*, II, 276 f.

¹⁰⁴⁰ 361. *Nachlass*, I, 303.

the social body, between the political and the social, between the public and the private) and simultaneously polycentric (due to the construction of the social whole on the basis of autonomous *Oikoi* and corporations), the structure of the polity that emerged from absolutism and revolution was precisely the opposite: It was dualistic (due to the fundamental separation of state and society, politics and social life, public and private). It was monocentric (due to unified legislation and administration). The root of the problem, then, lay in both the expansion and the autonomization of government power and its administrative apparatus. To conservatives, in its opposition to the “organic” forces of *societas*, the state appeared as a “machine”—this being the stereotypical expression—and they regarded “mechanism” and “despotism” as parallel phenomena.¹⁰⁴¹ Comparisons inspired by Napoleonic centralism to “Asiatic despotism” or “Orientalism” were also not lacking.¹⁰⁴² As the opposite of *societas*, the state was, *ipso facto*, a violation of its law—or more precisely: it *had* to violate its law in order to become its opposite. For this law, according to the conservative view, consisted in “*suum cuique tribuere*” (to give each his due), meaning the persistence of a specific legal subject in relation to a specific legal object. However, in the modern state, all rights had become legal objects not of a concrete legal subject but of “a supposed general and all-encompassing subject, a great invisible conceptual being called the state”, in which an “official caste” emerged and acted.¹⁰⁴³

The *autonomization* of the state and the accompanying interference in existing rights is now based on both ideological and real foundations. Its most important ideological support is the theory of a state purpose (*Staatszweck*), whose sole bearer and interpreter is supposed to be the state, standing in opposition to *societas*, and to which all private rights must unconditionally submit. As a consequence of the state’s detachment from divine law and its worldly orientation, this *Staatszweck* is generally defined as the happiness of all—even at the cost of violating existing rights. The theory of *Staatszweck* and the welfare doctrine associated with it thus imply absolute state power, whereas the *Rechtsstaat* (state of law), whose sole purpose is said to be “to promote the divine order in human affairs,” knew nothing of common purposes and general welfare—nor did it wish to.¹⁰⁴⁴ The real foundation

¹⁰⁴¹ 362. See, for example, Brandes, *Zeitgeist*, 50; E. L. v. Gerlach, *Notes*, I, 246.

¹⁰⁴² 363. Görres, *Rheinischer Merkur*, 101; Marwitz, II, 1, 83. As is well known, many (including Prussian) conservatives see the Prussian state of the 18th century as the prototype of the Napoleonic state; see, for example, Brandes, *Zeitgeist*, 50 f., 55; (Anonymous), *Spain*, 60 n.; Gerlach, *Notes*, I, 305.

See Section 16 of this chapter.

¹⁰⁴³ 364. This is how Müller argues in *On Necessity*, 175 f. Cf. Marwitz’s critique of the *General Land Law*, II, 2, 83.

¹⁰⁴⁴ 365. Typical statements in Haller, *Restoration*, I, 470 f.; Jarcke, *Miscellaneous Writings*, I, 6, 120 ff., 126 f., 170, 173; Radowitz, *Fragments*, I = *Selected Writings*, II, 159, 296 (the quoted words come from Radowitz). Cf. note 295.

of the state, in turn, is the *bureaucratie administrative*¹⁰⁴⁵, which emerges and grows as the state seeks to realize its purpose—that is, the welfare of all—whereby it must continuously expand the scope of its activities.¹⁰⁴⁶ This leads (even under absolutism) to a situation where the constitution no longer serves the administration but rather the administration serves the constitution.¹⁰⁴⁷ Substantively, conservative criticism of state bureaucracy after 1789 brings little new compared to earlier times.¹⁰⁴⁸ Above all, it is lamented that the expansion of the state apparatus and centralization consume money and drive up state debt, necessitating an increase in taxes and further complicating the tax system.¹⁰⁴⁹ But conservative criticism also extends to the legal foundation of bureaucratic action in the state—namely, general legislation—which offers little originality. Möser, the last in a long line of corporatively inspired conservatives, had already, several years before the Revolution, employed all the arguments that remained common after 1789. In his writings, one finds the assertion that general laws remove the state “from the true plan of nature, which manifests its wealth in diversity” and pave “the road to despotism,” which seeks to force everything into a few rigid rules; that “the simpler the laws and the more general the rules become, the more despotic, dry, and impoverished” a state becomes; and that philosophical theories, in their abstract generality, have the same structure and effect as general laws, etc., etc.¹⁰⁵⁰

By reviving the old corporatist polemic against Roman law and emphasizing,¹⁰⁵¹ in various forms,¹⁰⁵² the fundamental distinction between law (*Recht*) and statute (*Gesetz*), conservatives claim that general legislation “dissolves all differences in rights and freedoms.”¹⁰⁵³ They argue that it is *dead letter* rather than a *fresh outflow of the struggle of living forces with one another*, as true law should be; that it mechanizes state life and turns people into mindless functionaries (*Faktoten*); and even that judges have lost their dignity and their intrinsic relationship to their office, as they are now limited to mechanically applying fixed laws and merely issuing a

¹⁰⁴⁵ 366. Bonald, *Theory of Power*, III, 2,2 = *Ceuvres*, IV, 249.

¹⁰⁴⁶ 367. Jarcke, *Miscellaneous Writings*, 382 f. (again using the Napoleonic state as an example, see 387 ff.).

¹⁰⁴⁷ 368. *Spain*, 61 n.

¹⁰⁴⁸ 369. See above, Chapter II, Section 4f.

¹⁰⁴⁹ 370. See, for example, Marwitz, I, 611; Bonald, *Theory of Power*, I, 3, 7 = *Ceuvres*, III, 201; L. v. Gerlach, *Memorable Things*, II, 660.

¹⁰⁵⁰ 371. The tendency toward general laws is dangerous to freedom, *Patriarchal Fantasies*, I, 2 = *Works*, V, 22 ff.

¹⁰⁵¹ 372. On the contrast between Roman and Germanic law, see typical statements in Marwitz, II, 1, 123 f.; Rehberg, *Code*, 18 ff.; Müller, *Elemente*, XIII, esp. p. 156 f. Cf. above, Chapter II, Section 4d.

¹⁰⁵² 373. See above, Section 3a of this chapter.

¹⁰⁵³ 374. Müller, *On Necessity*, 172 f.

recognition¹⁰⁵⁴ (*Erkenntnis abzugeben*). In contrast to this *dead, cold, soulless* law, conservatives set up *love* (*Liebe*). This ideological construct serves as an attempt to Christianize and thus redeem patriarchal attitudes, patrimonial jurisdiction, and the associated forms of rule. Furthermore, the primacy of (Christian) *love* over the law implies the unity of *societas* and religion—that is, the demand for the subjugation of the (modern) state under the pre-state commands of Christianity.¹⁰⁵⁵ A “legality without love and conviction”¹⁰⁵⁶ (*Legalität ohne Liebe und Gesinnung*) cannot, according to conservative belief, create firm bonds among people. And what troubles conservatives here is not so much the psychological as the sociological aspect of the problem; for patriarchal *love* can only flourish where patriarchal relationships prevail, whereas the dominance of legality presupposes the dissolution of those relationships by the sovereign state. The uniform applicability of general legislation to all individuals isolates each individual and thereby dissolves *societas* into individuals, who can now only be held together by external means of legal coercion.¹⁰⁵⁷ In other words, the *atomization* of the polity, which is said to endanger *love*, appears all the more dreadful the more it is accompanied by the equality of these newly created atoms. Thus, equality before the law becomes the greatest and most tangible scandal that the modern state has introduced into the world. This equality, conservatives argue, can only ever be abstract, for it conceives of individuals in an abstract manner—that is, as detached from all concrete ties to specific groups and power structures. In contrast to this, conservatives set freedom as the manifestation of the *distinctiveness* (*Eigenart*) of a person in relation to their group.¹⁰⁵⁸ They maintain that the elimination of this freedom in inequality through equality before the general law must inevitably lead to “the equal servitude of all.”¹⁰⁵⁹

Just as with the question of the relationship between state and church, it was also much easier here to depict the fateful confusions of the modern state in ideal-typical extrapolations—setting up an ideal type of evil against an ideal type of good—than to take a firm and unambiguous stance toward this same state as the concrete reality that it had now become. When it comes to this stance, conservatives become divided—not least because, depending on the concrete situation and their own temperament, they had to assess differently the possibility

¹⁰⁵⁴ 375. Müller, *Elemente*, VII and IX = p. 86 ff., 107 f.; Rehberg, *Code*, 296 (here the quoted passage).

¹⁰⁵⁵ 376. See, for example, Baader, *Writings*, 421, and Radowitz, *Fragments*, I = *Selected Writings*, II, 270 f.

¹⁰⁵⁶ 377. Thus, E. L. v. Gerlach, *Nachlass*, I, 410.

¹⁰⁵⁷ 378. See, for example, Rehberg, *Code*, 24.

¹⁰⁵⁸ 379. Müller, *Elemente*, VII = p. 95.

¹⁰⁵⁹ 380. Jarcke, *Miscellaneous Writings*, III, 136 f.

of employing the state in the defense of conservative strongholds.¹⁰⁶⁰ The same E. L. v. Gerlach, who wanted nothing to do with a “*legality without love and conviction*,” subsequently writes that he nonetheless understands “what a weapon—and thus what a reality—abstract legality is in our time and how ‘we’ must seize this weapon for ourselves.”¹⁰⁶¹ Thus, conservative positions on the state fluctuate—ranging from Haller’s rejection, which goes so far as to deny the prince or the state the monopoly on legal violence,¹⁰⁶² to Stahl’s fundamental affirmation of the idea of the state, “*which the feudal party rejects as revolutionary or as a dead abstraction*.” Unlike the corporatists (*Ständische*), Stahl believes that not the estates alone determine “*the entire position of man*” but rather that the higher community is the nation. He even acknowledges the necessity of a—albeit “*organic*” rather than “*bureaucratic*”—centralization, given the dissolution of the old municipalities.¹⁰⁶³ Although for conservatives as a whole it was self-evident that the continued existence of the nobility was irreconcilable with the ‘omnipotence’ of a central government, some among them had to acknowledge that “the security of the citizens of a state... now rests on the unity of legislation and its administration.”¹⁰⁶⁴ If we wanted to highlight a common element in this diversity of conservative attitudes toward the state—not an intellectual one, but rather a mood-based one—we might recall Radowitz’s remarks on traveling by train, where he felt that it restricted the personal independence and freedom of movement of the traveler, and yet had now become a necessity. And then he melancholically added: “*So too, the modern state*.”¹⁰⁶⁵

b. The conservative idea of the nation

The conservative idea of the nation differs from the revolutionary one to the same extent and in the same sense as the ideal type of *societas civilis* differs from that of modern statehood. Conservatives are aware that the modern state—if not in its absolutist beginnings, then at least in its revolutionary completion—has brought a particular conception of the nation into being, and that advocacy for the former necessarily entailed partisanship for the latter. The conservative models of state and nation are equally aligned with one another. Whereas the modern state and modern nation are founded on the notion of a sum of politically equal and, at the same time, state-immediate individuals—free from partial bonds—the conservative

¹⁰⁶⁰ 381. See above, Section 3cd of this chapter.

¹⁰⁶¹ 382. *Nachlass*, I, 410, cf. 412.

¹⁰⁶² 383. *Restoration*, II, 98 ff.

¹⁰⁶³ 384. *Parties*, 329; *Legal Philosophy*, I, 2, 29.

¹⁰⁶⁴ 385. *Gentz, Fragments*, 63, 5.

¹⁰⁶⁵ 386. *Fragments*, I = *Selected Writings*, II, 356 f.

idea of the nation, like that of *societas civilis*, rests on the assumption of a hierarchical order, in which individuals come into contact with higher levels or the apex of the hierarchical pyramid only through their corporation or the head of their *oikos*. The conservative idea of the nation is primarily aimed at securing this "organic" structure, indeed making it the constitutive feature of the nation. This must be emphasized to dispel the widespread misunderstanding that the conservative idea of the nation stands in a necessary and unilinear relationship to the "romantic" concept of the people as developed by Herder and others. In reality, the distinction between a "rational" and a "romantic" concept of the nation¹⁰⁶⁶ does not always and everywhere coincide with that between the revolutionary and conservative national idea; rather, the conservative national idea is ambiguous and foregrounds whichever aspect can most effectively counter the revolutionary concept. Thus, it denies the constitutive significance of the main characteristics of the "romantic" concept of the nation or people (common language, customs, origin, etc.) when it seeks to emphasize the dynastic origin and support of national unity against the idea of popular sovereignty, while conversely, it adopts a favorable stance toward that same concept when opposing the revolutionary universalism of human rights. The conservative idea of the nation appears no less ambivalent in relation to the "rational" concept of the nation: insofar as absolutism regards the nation as a dynastic creation, conservatives must approximate the "rational" model, yet they turn away from its interpretation in the sense of modern statehood, which postulates the individual's direct relation to the state through the elimination of *oikos* leaders and all *pouvoirs intermédiaires*. In general, it must be noted that the national idea did not necessarily arise from the archetype of conservative ideology. Conservatives only discovered the nation as an entity with its own historical dynamism in their struggle against revolutionary universalism. However, when revolutionary ideology glorifies the nation as the overarching instance that levels traditional hierarchical differences, conservatives, in accordance with their fundamentally pre-state perspective, tend to neutralize the revolutionary potential of the nation by downgrading the national idea altogether from the higher perspective of the *civitas christiana*. Thus, their texts contain statements both in favor of the ("organic," i.e., corporatively structured) nation and against (natural law-based, revolutionary) universalism, as well as statements in favor of (pre-state or pre-national) universalism and against the (modern egalitarian) nation.

Let us now take a closer look at the ambivalence of the conservative national idea. First, it should be noted that conservative interest in the question of the nation was not awakened by sympathies for pre- or early romantic, politically harmless folklorism, but in a far more dramatic way—namely, through fear of the uncanny energy of French revolutionary nationalism. And to the extent that experiences with it increasingly revealed the inner connection between modern nationalism and popular sovereignty, the centralized state, and patriotism as a sentiment that,

¹⁰⁶⁶ 387. On this distinction, see Lemberg, *Nationalismus*, I, 168 f.

by fostering new loyalties and appealing to new instances, abolishes or at least relativizes¹⁰⁶⁷ traditional social distinctions, conservatives did not initially turn to the “romantic” concept of the people but instead held onto the notion of the *civitas christiana*, within which nations coexist, bound together by their shared corporate constitution while simultaneously being preserved from losing their still-unreflected individuality.¹⁰⁶⁸ This individuality is not protected by state borders and does not seek to establish them. The borders that do exist are not the result of collective and national forces but rather of personal and dynastic ones. At a time when nationality—“the most powerful force of the present”—had become “the most dangerous weapon in the hands of the enemies of legal order”,¹⁰⁶⁹ it seemed urgent to challenge the necessity of its connection to the doctrine of popular sovereignty through the thesis that the prince creates the nation, not the other way around, just as the head of a household creates the family and is not elected by its members.¹⁰⁷⁰ Moreover, the people and the nation as *pouvoirs constituants* were, due to the small number of politically decisive individuals in any state, mere fictions.¹⁰⁷¹ For Gentz, it was a “principle previously unknown to constitutional law” and a doctrine refuted by history that equality of origin, language, and religion conferred “the inalienable right” to form “one and the same political entity.” Such factors, he argued, represented “partly uncertain, partly very loose points of union,” and even in times when the idea of such unity was “frequently used as an instrument for stirring passions and overthrowing existing power structures”,¹⁰⁷² serious attempts to realize political unity on this basis had never been made. Even if it is conceded that unity of blood, language, custom, and tradition is particularly characteristic of a people, it is nevertheless denied that this natural people constitutes a “juridical person” that “would, in legal terms, possess a will.¹⁰⁷³” In other words, there exists both a “natural” and a “legal” concept of the people, the latter being based on the unity of political power and alone having relevance in legal matters.¹⁰⁷⁴ Since multiple peoples can coexist within a single state, the will of the state, if it is to be unified and stable, cannot be derived from their particularities. If the guiding “spirit of states” is to remain the “essentially universal Church of God,” then the principle must be upheld that “the state is earlier and greater than the nation, which only emerges from the state” and that the nation, in itself, “like all mere natural phenomena, is something nebulous and

¹⁰⁶⁷ 388. On this connection in general, see Kohn, *Idee*, 9 ff., 203, 209, 431 ff.

¹⁰⁶⁸ 389. Cf. Meinecke on Novalis and Schlegel, *Weltbürgertum*, 71 ff., 86 ff.

¹⁰⁶⁹ 390. Thus Radowitz, *Collected Writings and Speeches*, 99; cf. 135.

¹⁰⁷⁰ 391. Haller, *Restauration*, I, 511; Marwitz, I, 38 f.

¹⁰⁷¹ 392. Rehberg, *Untersuchungen*, 74 f.

¹⁰⁷² 393. *Writings*, V, 84 ff., 89 note.

¹⁰⁷³ 394. Thus Jarcke, *Collected Writings*, I, 24.

¹⁰⁷⁴ 395. Stahl, *Rechtsphilosophie*, II, 2, 164.

diffuse—hence its appeal to the pantheistic spirit of the present age.¹⁰⁷⁵ It should be added that some conservatives, in their struggle against the principle of nationality, explicitly denied the existence of pure nationalities and rejected racial criteria altogether, arguing that nationalism would dissolve “the European nations back into race” and thereby “return to the standpoint of barbarism.”¹⁰⁷⁶

The principles by which revolutionary nationalism could exert a leveling effect within each nation simultaneously claimed universal validity for themselves. This seemingly paradoxical liaison between nationalism and universalism was, however, logically necessary. Since the revolutionary conception of the nation postulated the direct and unmediated relationship of the individual to both nation and state, the individual had to be freed from all bonds constitutive of *societas civilis*; to achieve this, the individual had to be endowed with rights based solely on their status as a human being—rights that were inherent to all people and therefore universal. In light of this transformation of revolutionary nationalism into universalism, conservatives had to fight on two fronts simultaneously: against the leveling effect of nationalism within the nation, they counterposed the idea of the nation as hierarchy, and against the universalism of human rights, they asserted the reality of distinct and separately existing national individualities. Just as in the revolutionary vision, their conception aligned the national and the international model—but with reversed signs: for them, the differentiation of nations within humanity appeared as natural and immutable as the differentiation of estates and individuals within the nation. This is the concrete meaning of the connection that Burke establishes between “our love of liberty” and “our love of our country,” which then serves as the basis for his rejection of the universalization of the concept of freedom in reference to humanity as such.¹⁰⁷⁷ Thus, among conservatives, it became common to mock the *philanthropie moderne* of human rights and to equate it with cosmopolitanism—“pour qui toutes les nations ne forment qu’une seule et même famille”¹⁰⁷⁸ (“for whom all nations form but a single family”). Against this cosmopolitanism, conservatives emphasized that law and state belonged together, that law was tied to specific localities and specific cases, and that the state itself constituted the locality where these cases played out.¹⁰⁷⁹ The state that Müller refers to here is clearly one in which legal diversity and differentiation of rights prevail. In contrast, the modern egalitarian state (Fichte’s) is rejected in the same breath as cosmopolitanism (Kant’s)—which, given the logical coherence between these two

¹⁰⁷⁵ 396. Thus E. L. v. Gerlach, *Notes*, I, 397; cf. 420. Around the time of the Reich’s founding, Gerlach stubbornly clung to this idea; see *Deutschland etc.*, 14 ff.

¹⁰⁷⁶ 397. Ritter, *Prussian Conservatism*, 62.

¹⁰⁷⁷ 398. *Letters on a Regicide Peace*, IV = *Works*, VI, 99.

¹⁰⁷⁸ 399. Rivarol, *Excerpts from the Journal*, *Oeuvres*, IV, 35, 148.

¹⁰⁷⁹ 400. Müller, *Elemente*, II = p. 30.

notions as outlined above, should come as no surprise.¹⁰⁸⁰

Revolutionary universalism, as the reverse side of revolutionary nationalism, became all the more detested as it manifested practically in the form of French political-military expansionism. Conservatives were forced to recognize that this expansionism, which subjugated old Europe under the banner of universal human principles and values, in reality served not its proclaimed ideals but rather the self-interest of those who invoked them. As Rehberg wrote at the time, the introduction of the French legal system in certain conquered territories was “a very effective means of promoting the expansion of French rule”; the supposed universality of human rights was belied by the fact that the French enjoyed a privileged status—even in legal terms—making it necessary to become French “in order to partake in human rights.” Thus, the imposition of French law was in fact “the surest preparation for the unification of all peoples—but not in the bond of love and unity that had been promised to all nations of the earth in 1789.¹⁰⁸¹” In their struggle against this aggressive and leveling universalism—which in reality concealed a foreign nationalism—conservatives now discovered the nation as an intrinsic individuality whose character could not be altered at will or by force. However, that which could not be arbitrarily constructed or dissolved could not be the dynastically conceived nation—precisely this was the prime example of a nation’s artificiality and dissolvability—but rather an entirely different kind: the nation of common language, tradition, and custom, a nation bound together not merely by dynastic allegiance but by an existential and historically preserved collective will. The extent to which conservative minds were, as it were, forced into this new sense of nationality by French expansionism can be seen most clearly in the case of Gentz. As we have just seen, once the Napoleonic nightmare had passed, he acknowledged only the dynastic concept of the nation. Yet, during Germany’s humiliation at the hands of French armies, he dreamed of German unity (“what a great and glorious idea!¹⁰⁸²”) and declared: “If the political forces of Germany are ever to become one, then first the national will must be one.¹⁰⁸³” In 1810, he even briefly allowed himself to be convinced by A. Müller that “language and nationality determine the true and only borders of individual states.¹⁰⁸⁴” Around the same time, Coleridge attacked the “false philosophy or mistaken

¹⁰⁸⁰ 401. *Elemente*, IV = p. 52.

¹⁰⁸¹ 402. *Code*, 92, 98.

¹⁰⁸² 403. Letter to Brinckmann from 18.12.1804 = *Letters*, II, 251.

¹⁰⁸³ 404. *Fragmente*, XLVIII (this sentence dates from 1806).

¹⁰⁸⁴ 405. Letter to Müller, presumably early 1810, *Letters*, II, 419. German conservatives at that time practiced studying national particularities, not least through polemical comparisons between the German and French “character”; see, for example, the detailed letter from Brinckmann to Gentz dated 12.11.1807 in *Gentz’ Letters*, II, esp. 297 ff.; cf. Marwitz, II, 2, 212.

religion" that sought to persuade people "that Cosmopolitism is nobler than Nationality and the human race a sublimer object of love than a people," instead viewing patriotism as "a necessary link in the golden chain of our affections and virtues"; "in order to be men we must be patriots, and patriotism cannot exist without national independence."¹⁰⁸⁵ Even more emphatically and concretely, the concepts of nation and patriotism emerged in Wordsworth's reflections inspired by the Spanish people's war. To the now conservative poet, the fighting nation appeared as an organic whole, in which people and army were barely distinguishable from one another, with individuals—"gathered together, in a stormy season, under the shade of ancestral feeling"—merging within the bosom of that "solemn fraternity which a great Nation composes."¹⁰⁸⁶ Here, the foundation of national existence is common tradition and shared rootedness in the same soil—hence the deep and spontaneous, though unreflective, patriotism of the peasantry.¹⁰⁸⁷ Thus, the nation becomes an existential matter, not merely the framework of existence but its very blood and heart. However, after Napoleon's final defeat and the new partitioning of Europe along dynastic lines, conservatives (including Wordsworth)¹⁰⁸⁸ quickly distanced themselves from such notions. The fundamentally assumed dynastic foundation of the nation could be reconciled—at least to some extent—with the idea that law and governmental authority originated from *societas* or the nation, since it merely implied the inclusion of an ethnic whole within specific state borders without altering its internal social structure. Therefore, it did not necessarily contradict the principle of the inviolability of traditional law.¹⁰⁸⁹ However, it was impossible to reconcile the dynastic principle with the conception of the nation as an autonomous value and purpose in itself. Such a nation would resist the sovereign administration of power according to supranational dynastic criteria and would instead demand its own political expression—ultimately, the nation-state. Thus, to the extent that conservatives, in their struggle against revolutionary universalism and expansionism, acknowledged the nation as an independent historical entity based on shared race, language, and tradition, they were forced to stop halfway. That is, they could only praise the traditionally "organic" aspect of the nation—reinforcing the idea of the individual's rootedness in supra-individual structures. Yet, there was an important distinction between the supra-individual structure of *societas* and that of the nation.

¹⁰⁸⁵ 406. *The Friend*, *Collected Works*, IV, 292, 296.

¹⁰⁸⁶ 407. *The Convention of Cintra* (1809), *Prose Works*, I, esp. 47, 64, 118, 131.

¹⁰⁸⁷ 408. *Ibid.*, 156 ff. On Wordsworth's concept of the nation, cf. Brinton, *Political Ideas*, 56 ff.

¹⁰⁸⁸ 409. On his antipathy toward national movements after 1815 (while in 1809 he had still advocated, more or less, for a consistent implementation of the nationality principle, see *Ibid.*, esp. 142, 152, 155), see Cobban, *Burke*, 150 f., who also gives a very good account of the relationship between Burke's and Wordsworth's views on the nation (144 ff.).

¹⁰⁸⁹ 410. This against Meinecke, *Weltbürgertum*, 252 f.

Societas operated under a legal order that sanctioned the existing hierarchical structure, including the differentiation of rights and individuals. In contrast, all individuals were, by definition, equally part of the elements that constituted the nation—since a greater or lesser participation in religion, language, or custom based on class distinctions was inconceivable. In this sense, even in its traditionalist version, the concept of the nation contained a strong egalitarian component. Consequently, even within a counter-revolutionary context, it could be understood as a kind of *volonté générale* or at least as an overarching instance to which all estates had to subordinate themselves in pursuit of higher goals.

The danger of such a—at its core counter-revolutionary but in its consequences at least reformist—interpretation of the concept of the nation became clear to German conservatives, not least through Görres' pathos-laden nationalist rhetoric. Görres did not counter the French conqueror with the classic conservative axioms, which in themselves were just as universalist as the revolutionary principles, but instead insisted on the unbridgeable gulf between two fundamentally alien nations. In a just struggle against a foreign nation, another nation discovers its identity at the very moment it transforms into an energy that unfolds with elemental force in the given historical space. The nation has an *essence*, and all foreign elements must be expelled, while all that is inherent must be awakened and refreshed. In this process, the national soul, in its now-recognized and deeply felt distinctiveness, encompasses all individuals, creating "a special accord among kindred spirits."¹⁰⁹⁰ Before the foreign enemy, the previously decisive internal distinctions within the nation fade into the background—lord and servant become brothers in war—so that vertical separations (between peoples) supersede horizontal ones (between estates). In light of the newfound and decisive insight that "at its innermost core and center... the nation is one and identical with itself, and then again in its outermost sphere and widest expansion, where it distinguishes itself from other peoples in language, custom, character, and essence and sets itself against them" both the irreversible decline of the feudal system and the obsolescence of confessional conflicts were asserted.¹⁰⁹¹ However, the dissolution of traditional divisions by the nation had to find political-administrative expression: if French-revolutionary centralization was to be avoided, another means had to be found to meet "the demands of the present."¹⁰⁹² To ensure "internal stability and a united stance toward foreign powers," "the public spirit in its internal corporative structure" had to be granted "a constitutional voice and an influence on the machinery of state governance." Görres did accept the traditional division of society into the three estates of clergy, military, and labor as the foundation of the

¹⁰⁹⁰ 411. See the *Reflections on the Fall of Germany and the Conditions of Its Rebirth*, published in 1810, *Collected Writings*, IV, esp. 226–229.

¹⁰⁹¹ 412. *Austria, Prussia, and Bavaria* (1814) = *Rheinischer Merkur*, 88 ff.; cf. 113 ff.

¹⁰⁹² 413. *Ibid.*, 100 ff., 105.

constitution, but at the same time, he argued that each of these “forms of public life” should be “self-contained, as required by the integrity of a whole, yet open to the others, as befits a part of a unified life.” The division of estates within the state, he claimed, should not be “separating and isolating” but should function like the limbs of an organism, complementing and depending on one another.¹⁰⁹³ This constitutional vision culminated in demands deeply suspect to conservatives, such as universal armament of the people (since the people must always feel that “they have a fatherland to lose, not merely a master to exchange”) and “freedom of the press.”¹⁰⁹⁴ In calling for “securing the future through a lively, active public spirit that embraces the entire nation,” Görres inevitably provoked strong conservative opposition, despite his equally sharp condemnation of the adherents of “Napoleonic novelty” and the “antediluvian old order.”¹⁰⁹⁵ This opposition only grew further with his remark that “the mighty natural force, which is being unleashed ever more among the peoples,” had swept away the old diplomatic craft and dynastic cabinet politics.¹⁰⁹⁶

Conservatives observed that “the enthusiasm of 1813 had a strong demagogic flavor”¹⁰⁹⁷ and denied that the participation of the *Volk* had been decisive in the victory over Napoleon; rather, they argued that the victorious campaigns had been organized and led by the monarchs.¹⁰⁹⁸ Regardless of the truth of these claims, they could not undo the rise of a revolutionary or reformist nationalism. More than that—the long-term logic of historical development, which often bypasses the intentions of the actors involved, ensured that nationalism, of all the forces that contributed to the dissolution of *societas civilis* and the emergence of modern statehood, was the one that penetrated the conservative camp most deeply, splitting it and transforming it both politically and ideologically. In this process, conservative identity itself suffered the most. This drama played out with particular intensity in Germany, where the national question remained unresolved for the longest time. Given the growing and politically inescapable drive for unity—contained in one form only to break through in another, whether openly or covertly—the resolution of this question inevitably became a race between competing parties. As early as 1814, Marwitz¹⁰⁹⁹ wrote to Hardenberg: “Just as indestructibly has the idea of a common German fatherland taken root. Whoever seizes upon this idea will rule in Germany.” Many conservatives found it easier to

¹⁰⁹³ 414. *The Future German Constitution* (1814) = *Rheinischer Merkur*, 65, 67, 72.

¹⁰⁹⁴ 415. *Rheinischer Merkur*, 205 ff., 208.

¹⁰⁹⁵ 416. *Germany and the Revolution, Collected Writings*, XIII, 59, 52.

¹⁰⁹⁶ 417. *Ibid.*, 97.

¹⁰⁹⁷ 418. Thus E. L. v. Gerlach, *Notes*, I, 115.

¹⁰⁹⁸ 419. Gentz, *On the Wartburg Festival* (1817) = *Writings*, III, esp. 394.

¹⁰⁹⁹ 420. II, 2, 223.

abandon the universalism of the Christian-feudal aristocratic ideology and embrace nationalism, particularly since the Revolution had emerged under universalist banners. In this context, professing loyalty to the nation could be perceived *eo ipso* as the essence of counter-revolutionary sentiment, often obscuring the non-conservative consequences of nationalism as a political force. At least some conservatives, facing pressing political realities, succumbed to this optical illusion without significant resistance. These were the conservatives who, while compelled to act within the new conditions, sought to avoid making fundamental concessions to revolutionary ideology. In this way, nationalism functioned as a conservative detour to connect with modern statehood. Foreign policy imperatives, combined with the realization that successful defense of the nation's external interests was essential for its internal political survival, forced one faction of conservatives to abandon the estate-based principles and the legal framework of *societas civilis* altogether. This shift was not merely a matter of prioritizing the idea of the state over that of the *civitas christiana*; it also involved modernizing the very concept of the state to ensure it remained effective in the international arena. The central question thus became: what internal organization is best suited to mobilize the nation's forces in foreign political struggles—struggles whose necessities and rules evolved independently of conservative (or revolutionary) ideals and desires? By the 19th century, this question could no longer be answered solely in terms of the pure conservative social ideal.

The inevitability of departing from conservative orthodoxy whenever foreign policy considerations came into play had already been sensed by those Prussian conservatives who were more invested in the cause of the estates than in the outcome of the war against Napoleon. The opposition between Finckenstein and Marwitz¹¹⁰⁰ on this issue is emblematic of the emerging split in conservative loyalties. This is not to say that Marwitz became a revolutionary nationalist; rather, his loyalty to the king and his belief in the military duty and honor of the nobility—which legitimized its social privileges—led him to grant patriotic duty at least temporary priority. These pre-national motives often played a role in winning over the nobility, which traditionally regarded foreign policy as the crown's prerogative, to an active national foreign policy—provided it was pursued or sanctioned by the monarch.¹¹⁰¹ The intra-conservative struggle over the nature and status of the nation, still unresolved around 1810, erupted with particular intensity at the time of Olmütz. While the Gerlach circle argued that Prussia must “abandon the illusion of the great nation”¹¹⁰² and lamented that “all the architects of our

¹¹⁰⁰ 421. See on this Ramlow, *Marwitz*, 40 ff.

¹¹⁰¹ 422. Cf. Ritter, *Prussian Conservatism*, 36.

¹¹⁰² 423. Thus Count Stolberg in a letter to E. L. v. Gerlach dated 10.7.1850 = E. L. v. Gerlach, *Nachlass*, II, 695.

revolutionary foreign policy are professing Christians,¹¹⁰³ Radowitz came to the conviction that the demand “for the manifestations of a national life” was “unavoidable” and would “remain a dangerous weapon in the hands of the revolutionary party until it is taken from them.”¹¹⁰⁴ The national conservatives of the *Preußisches Wochenblatt* took up this conviction, distancing themselves from the policy of capitulation to Austria, which they deemed incapable of countering the upheavals of the revolution except by sacrificing Prussia’s foreign prestige.¹¹⁰⁵ Opposing the *Kreuzzeitung* and the Gerlachs, they argued that domestic political principles could not simply be applied to foreign policy. At the same time, they took this argument further by demanding that domestic political questions be addressed in accordance with the needs of foreign policy.¹¹⁰⁶ Precisely because they sought to mobilize all available forces of the nation in service of foreign policy goals, they rejected the estate-based monarchy and, by subordinating the monarchical institution to the idea of the state, adopted a more favorable view of the constitutional state—though they continued to reject full parliamentary governance.¹¹⁰⁷ To limit the non-conservative implications of handling domestic issues in the interest of national foreign policy, these national conservatives sidelined the “people” as a dynamic entity that might transform into a *pouvoir constituant*, instead granting absolute priority to the state. As a result, the “organic” conception was displaced in favor of an activist-voluntarist one, which placed greater emphasis on personal decisions and concrete institutions than on the supra-personal forces idealized by the historical school.¹¹⁰⁸ We need not delve here into the connection between these ideas and the events of the German unification period. What is crucial to note is that the emergence of a national-conservative movement—at the cost, in practice and sometimes explicitly, of fundamental aspects of pure conservatism—further demonstrated the growing inability of conservatism to formulate an active political strategy suited to the new reality on its own terms. This development marked yet another step toward its decline. A nationalism seized from the hands of the revolution and turned against it could, for the time being, secure the ruling position of conservative elites—on the condition that they proved capable of successfully playing new social roles. But for

¹¹⁰³ 424. Thus E. L. v. Gerlach cites a saying of Bindewald, *Nachlass*, I, 277.

¹¹⁰⁴ 425. *Conversations*, VIII = *Collected Writings*, I, 213. Cf. *Fragmente*, I = *Collected Writings*, II, 365:

“The old state principle... was dynastic. The new one is national, and in two respects: in terms of tribal unity and in terms of the nation-state proper. All existing states are caught up in this transformation process and must undergo it...”

¹¹⁰⁵ 426. Behnen, *Preußisches Wochenblatt*, 181.

¹¹⁰⁶ 427. *Ibid.*, 108 ff.

¹¹⁰⁷ 428. *Ibid.*, 136.

¹¹⁰⁸ 429. *Ibid.*, 1656, 206 ff., 217.

conservatism as a historical phenomenon and movement, this was fatal. At least on this point, E. L. von Gerlach was not mistaken.

5. Conservatism and Liberalism

a. The Conservative Evaluation of Liberalism and the Possibilities of an Alliance with It

The fundamental conservative assessment of liberalism is easy to discern: liberalism belongs to the revolutionary forces of darkness. The increasingly prominent opposition between liberalism and (social) democracy—observed by conservatives with no small measure of *schadenfreude*—generally does not lead to any major revision of this Manichaean judgment but merely modifies it in the sense that liberalism is seen as an inconsistent, masked, or treacherous revolution, whereas democracy is its consistent and openly declared form. Conservatives were convinced of the essential and practical equivalence of liberalism and democracy for reasons that, in their historical substance, have been validated by the developments of the past two centuries. As early as shortly after 1789, conservatives emphatically pointed out that the principle of equality could not stop at the formal level—that is, at legal equality—but would, by its own inherent dynamic, sooner or later lead to demands for the equal distribution of property.¹¹⁰⁹ Between formal equality and real social inequality, they saw an explosive contradiction,¹¹¹⁰ and they predicted that “if the nobles are hanged, the turn of the bourgeois will come next, and if the aristocracy of rank is destroyed, they will attack the aristocracy of wealth as well.”¹¹¹¹ The critique of liberalism characteristic of 19th-century conservatism was first fully developed in Restoration-era France, when liberalism emerged as an organized ideological movement and a cohesive political party. The liberal denunciation of the “horrors” of the Revolution did not reassure the French *Restaurateurs* as long as liberalism remained committed in principle to the revolutionary ideal of equality; to them, this was sufficient proof of the objective collusion—or even the deliberate coordination—between liberalism and Jacobinism, with the Jacobins appearing merely as the extremists of liberalism.¹¹¹² Montlosier described the attitude of the liberals as follows: “*On proclame avec soin son horreur des excès révolutionnaires; on n’en provoque moins une révolution*

¹¹⁰⁹ 430. Rivarol, *Extraits du Journal, Oeuvres*, IV, 146; Brandes, *Polit. Betr.*, 65; see also Bonald, *De la richesse des nations* (1810), *Oeuvres*, VII, 594.

¹¹¹⁰ 431. Rehberg, *Untersuchungen*, 119f.

¹¹¹¹ 432. Mallet du Pan, *Betrachtungen*, 33.

¹¹¹² 433. Mellon, *Political Uses*, 83ff., 88.

nouvelle.¹¹¹³ The liberals believed they could set a revolution in motion and then steer it according to their own vision, while the Jacobins, for their part, speculated on exploiting the revolution initiated by the liberals for their own ends.¹¹¹⁴ Given this fundamental stance of liberalism, as well as the widespread dissemination of its slogans (*esprit du siècle, marche du temps, accroissement des lumières, progrès de la civilisation*, etc.), which increasingly radicalized broader social strata, conservatives argued that the impression that the revolution had come to an end in 1815 was false.¹¹¹⁵ On the contrary, it would continue—more in a Jacobin than a liberal direction—since liberalism contained within itself an irresolvable contradiction: if it applied its principles consistently, it would inevitably lead to the *gouvernement de la multitude* (rule of the masses); but if it wished to serve its true bearer—the bourgeoisie—it would have to exclude the masses from government and thereby violate its own principles: “*conçoit-on un semblable galimatias?*”¹¹¹⁶

These key themes of the French critique of liberalism were adopted in Germany, frequently repeated, varied, and expanded upon. As early as 1823, Schlegel argued that the Revolution was by no means concluded (if anything, the present phase marked the *end of the beginning* rather than the reverse¹¹¹⁷) and linked this view to the diagnosis that liberalism was “nothing but a somewhat differently modified relapse into the Revolution.”¹¹¹⁸ Jarcke went even further, considering “doctrinaire liberalism” to be “a thousand times more dangerous” than Jacobinism because it was “cunning” and “far more pliant in its forms,” even though “no less reprehensible in its principles.” The “direct succession of old Jacobinism” and its “more refined” liberal version thus belonged together ideologically and politically.¹¹¹⁹ The reason why Saint-Simon and (in his later years) La Mennais embodied “the most consistent form” of liberalism¹¹²⁰ lay in the inevitable transformation of formal equality into material equality, and of political revolution into social revolution—a transformation clearly observable in the historical trajectory from the Glorious Revolution to the Great Revolution of 1789 and the July Revolution.¹¹²¹ Liberalism fights against the aristocracy and for equality, yet it “wants nothing to be without

¹¹¹³ 434. *Monarchie*, VII, 86.

¹¹¹⁴ 435. *Ibid.*, VII, 166. See also Montlosier’s analysis of the composition of the liberal party on p. 158.

¹¹¹⁵ 436. *Ibid.*, V, 151ff. See also the analysis of the individual principles of the revolutionary spirit, 155ff.

¹¹¹⁶ 437. *Ibid.*, VII, 95.

¹¹¹⁷ 438. *Signatur des Zeitalters*, I = *Werke*, VII, 488f.

¹¹¹⁸ 439. *Philosophie der Geschichte*, XVIII = *Werke*, IX, 411.

¹¹¹⁹ 440. *Verm. Schriften*, I, 40, 2836; see also III, 137ff.

¹¹²⁰ 441. *Ibid.*, I, 303.

¹¹²¹ 442. *Ibid.*, I, 175, note.

rule—only that, after completing the great task of leveling human society, the aristocracy of money alone should remain—and it cries out against anarchy and violence when the lower classes begin to stir.” By sacrificing the rights of landed property on the altar of “individualism,” its advocates implicitly adopt the communist principle that private rights must yield to the interests of the greater majority—and they are fully aware of this: “but they hope to escape the force of consequences through the power of the police; they believe it is possible and justified to expropriate today and... tomorrow invoke the sanctity of property.”¹¹²² Radowitz similarly identified liberalism’s fundamental contradiction and dilemma: “Demanding equality upward while maintaining inequality downward.”¹¹²³ If, however, the principle of popular sovereignty is fundamentally approved, it must ultimately lead to “absolute democracy,” just as, in the economic realm, “the equal claim to earthly enjoyment” must lead to “the dissolution of property and the introduction of communal ownership.”¹¹²⁴ By 1830, Radowitz observed a predominance of liberalism—“the inconsistent revolution”—over democracy on a pan-European scale, but for him, this did not mark a definitive resolution of the struggle between the two revolutionary factions. The “high priests of the revolution of principles” maintained their opposition to the now largely content bourgeoisie and sought to organize the workers and harness them for their purposes, with the question of property replacing the political question. The emerging social or labor issue not only rendered the divide between liberalism and democracy irreconcilable but also made it permanent, while simultaneously forcing liberalism to deviate from its own theoretical principles.¹¹²⁵ As conservatives noted—gleefully, and with justification—this liberal betrayal of principle was especially evident in electoral law, where the property-based restriction amounted to nothing more than a [covert return] to the estate-based constitution. “The feigned sovereignty of the deceived people consists, in the end, merely in the privilege of choosing a new master with unlimited power every 4–8 years, and then humbly withdrawing once again to await what their new lord will do for them.”¹¹²⁶

The critique of liberalism, revolving around these key themes, was not a product of the scholar’s study; rather, it developed in daily political polemics and in the conservative press¹¹²⁷ before being systematized in the theoretical works of

¹¹²² 443. *Ibid.*, III, 138, 167ff.

¹¹²³ 444. *Fragmente*, I = *Ausg. Schriften*, II, 287; see also 338 on the “contrast between the political and the social revolutionary party.”

¹¹²⁴ 445. *Gespräche*, IX = *Ausg. Schriften*, I, 221ff.; see also *Fragmente*, I = *Ausg. Schriften*, II, 316.

¹¹²⁵ 446. *Fragmente*, I = *Ausg. Schriften*, II, 177ff.; *Gespräche*, III = *Ausg. Schriften*, I, 103, 131ff.

¹¹²⁶ 447. *Vollgraff, Täuschungen*, 35, 37ff.; see also Marwitz, II, 2, 432ff.

¹¹²⁷ 448. See, for example, Scheel, *Berl. Pol. Woch.*, 100ff.

conservative ideologues. In essence, Cortés and Stahl did nothing more than illustrate the inconsistencies and half-measures of liberalism, as well as the necessity of its eventual transition into (consistent) socialism,¹¹²⁸ according to the decades-old schema outlined above. For this reason, a detailed analysis of their specific views on the matter can be dispensed with here. However, precisely because of its concrete socio-political origins and references, conservative criticism of liberalism could not always maintain its ideal-typical purity and its irreconcilable rigor. Conservatism did not stand alone against liberalism as its sole enemy on the battlefield; in the realm of contemporary politics, at least two other major forces were at play—namely, the traditional monarchy and the rising (social) democracy. This necessitated a shifting game of alliances and reversals, in which certain combinations were possible and corresponding ideological rapprochements or delineations became necessary. We have just described the extreme conservative rejection of liberalism; in the following, we will examine to what extent an alliance—or at least an approximation—between conservatism and liberalism was considered and pursued, both against absolutism and against (social) democracy, as well as the obstacles that stood in its way.

Let us first examine to what extent the presence of social democracy—threatening to both sides in the socio-political arena—influenced the early relationship between conservatism and liberalism. Although the frequent conservative warning to liberals that they would be the next victims of the very equality they themselves propagated was often expressed in the heat of polemics, it nevertheless implied an acknowledgment of a certain shared fate and mutual interests. It could even be interpreted as a tacit offer: conservatives would fully recognize bourgeois property rights, provided their own were likewise declared inviolable. This could have served as the basis for a united front of all property owners against social democracy, temporarily setting aside the question of the specific nature of each form of property and its connection to the broader structure of the polity. The relationship between conservatism and liberalism fluctuated depending on whether this exclusion of deeper differences could be successfully maintained in a given political context. Notably, conservatives who had no illusions about the irretrievability of the *ancien régime* had, even in the first years of the Revolution, proposed an alliance of all property-holders as the only viable path to preserving power—or at least ensuring the survival of the nobility. Mallet du Pan based his constitutional plan for a *première chambre*—reserved for the clergy and nobility, but also “aux citoyens de tout ordre distingués par de grands services ou de grands propriétés”—on the following socio-political rationale: “Le jour est arrivé ou les propriétaires de toutes classes doivent sentir, enfin, qu’ils vont tomber à leur tour sous la

¹¹²⁸ 449. Cortés, *Ensayo*, II, 8 = *Obras*, II, esp. 595ff. (The theological aspect of Cortés’ question, which despite all its brilliant rhetoric is not original, will be addressed in Section 6 of this chapter); Stahl, *Parteien*, esp. 71, 78ff., 100ff., 177ff., 273.

*faux de l'anarchie.*¹¹²⁹ Similarly, Montlosier lamented during the Restoration that no political opening had been made toward the bourgeoisie in 1789 and that no “*représentation générale des propriétaires*”—a concept he had already envisioned at the time—had been established.¹¹³⁰ Yet he still considered this perspective the only viable one and accordingly drafted his constitutional plans for a Senate and a Chamber of Deputies with reference to “*tout l'ordre des propriétaires.*”¹¹³¹ He urged the nobility to abandon dreams of restoring the pre-revolutionary order and to set aside their resentments, while at the same time calling on the bourgeoisie to exercise moderation in the face of threats from below: “*c'est avec les intérêts anciens qu'on gardera vos intérêts nouveaux. C'est n'est pas dans la révolution que la révolution peu espérer quelque salut; c'est dans la contre-révolution, seule, le Roi à sa tête.*”¹¹³² Chateaubriand shared this view. He argued that all “*propriétaires*” must recognize their “*sûreté mutuelle*” and “*solidaires*”.¹¹³³ To build this unifying bridge, he distinguished between “*intérêts matériels révolutionnaires,*”—which had arisen de facto after 1789 and should now be protected—and “*intérêts moraux révolutionnaires,*”, which aimed at the full realization of the equality principle and therefore had to be resisted.¹¹³⁴ On this basis, he believed it was possible to win over people “*dont les intérêts sont formés hors de la monarchie légitime*” for the cause of constitutional legitimism, thereby creating a broad front of “*gens de bien*”—in effect, a new aristocracy to serve as the foundation of a conservative France.¹¹³⁵ That this strategy was not intended as a historical legitimization of liberalism but rather as its domestication under the guidance of a wise aristocracy was evident from the vehemence with which Chateaubriand rejected the July Revolution: “*Nous marchons à une révolution générale.*”¹¹³⁶ This indicated that liberalism, on its own and left to itself, possessed none of the virtues that might be attributed to it as long as it remained sheltered within the paternal embrace of the nobility. In other words, progress could at best be accepted as one side of a balance that depended equally on preserving forces. From the polarity of opposing influences arose what he called the “*harmonious balance of the great correspondent, at once supporting and*

¹¹²⁹ 450. *Mémoires*, I, 188 and 264.

¹¹³⁰ 451. *Monarchie*, II, 173, 225, 230ff., 340ff.

¹¹³¹ 452. *Ibid.*, IV, 436ff. (the quoted sentence is on p. 438).

¹¹³² 453. *Ibid.*, IV, 89ff.; V, 463; VI, 53; VII, 233 (here the quoted passage).

¹¹³³ 454. *Seconde Lettre à un Pair de France* (1824) = *Oeuvres*, XII, 164.

¹¹³⁴ 455. *De la Monarchie selon la Charte*, II, 15 = *Oeuvres*, XII, 42. The programmatic article of the *Berliner Polit. Wochenblatt* adopted this distinction, see Jarcke, *Verm. Schr.* I, 5.

¹¹³⁵ 456. See the unspoken speech of 25.3.1820 = *Oeuvres*, XIV, 106; see also *Réflexions politiques* (Dec. 1814), XII = *Oeuvres*, XI, 243; *De la Monarchie ...*, II, 51 = XII, 78; *Préface des ouvrages politiques* (1826) = XIV, 3ff.

¹¹³⁶ 457. *De la Restauration et de la Monarchie élective* = *Oeuvres*, XII, 276ff. (the quoted sentence is on p. 283).

*counterpoising, interests of the state.*¹¹³⁷

The conservative expectation that, in the eventual great counter-revolutionary coalition of all property owners, liberalism would play second fiddle could naturally be expressed more openly in countries where the bourgeoisie was still clearly economically and politically subordinate. Thus, even in Germany, pure conservatives advocated for free rein for "industrial and commercial forces," but this unrestricted development was only to be an "allowed development"—¹¹³⁸ meaning that it must not endanger the existing social hierarchy but rather reinforce it by satisfying one of its now important levels. In its early phase, the free expansion of capitalism itself did not seem capable of upending the traditional relationship between the nobility and the bourgeoisie. The willingness to seek rapprochement or, conversely, the inclination toward distancing could be better gauged by conservative attitudes toward two issues that had already emerged in the pre-revolutionary era: whether commoners should be permitted to acquire noble estates and thus rise into the nobility, and whether the nobility should be allowed to engage in capitalist enterprises. It is clear that rejecting both the sale of noble land and the nobility's¹¹³⁹ involvement in "peaceful occupations" effectively excluded any significant opening toward the bourgeoisie. A middle position was taken, for example, by Rehberg, who saw the increasing power of "money wealth" as making the rapprochement of estates inevitable. He acknowledged that the nobility, under the influence of the "spirit of bourgeois trades," was gradually losing its traditional warrior ethos and even went so far as to declare the nobility's tax exemption an anachronism. However, he still disapproved of the frequent ennoblement of commoners and fundamentally rejected the involvement of the nobility in trade and industry, as it was incompatible with the selfless spirit required for service to the commonwealth.¹¹⁴⁰ Even conciliatory or non-noble conservatives hesitated to advocate openly for a genuine fusion of all property owners into a single upper class. The reason for this hesitation is easy to grasp: if the nobility were to retain only its property while relinquishing its social and political privileges, it would become merely one part of society standing apart from the state, thereby accepting the final dissolution of *societas civilis*. Unlike the modern separation of state and society, *societas civilis* rested on the unity of economic and social-political structures, as embodied in the traditional rule of the nobility. In countries where the bourgeoisie was particularly strong, an even worse outcome was feared—namely, that the nobility would not even maintain its leading position in the economic hierarchy but would instead be overtaken or

¹¹³⁷ 458. See Coleridge, *Church and State*, II = *Works*, X, 24f., 28ff.

¹¹³⁸ 459. The quoted passages in Jarcke, *Verm. Schr.*, I, 44; see also the note on p. 455.

¹¹³⁹ 460. For example, Marwitz, who otherwise expected an improvement in the nobility's position through the introduction of primogeniture (II, 2, 157, 159); see already Maser, *Werke*, IX, 345; X, 746.

¹¹⁴⁰ 461. *Adel*, 199ff., 113, 101, 151ff., 116ff.; see also Brandes, *Zeitgeist*, 186ff.

absorbed by the bourgeoisie. French *Restaurateurs* like Cottu were well aware of this.¹¹⁴¹ If, given the new circumstances, conservatives did not want to alienate the bourgeoisie entirely, they considered an alliance with it—one that either presupposed or led to its feudalization. A stricter version of this feudalization was proposed by Bonald, who demanded that ennobled bourgeois landowners abstain from capitalist ventures.¹¹⁴² A more flexible version was put forward by Radowitz, whose new aristocracy would exclude certain members of the nobility by birth while incorporating certain commoners, though large landownership would still remain the “center of political society,” and acquiring land would be the key to social ascent into the nobility.¹¹⁴³ Radowitz illustrated his vision with the example of non-noble officers who absorbed the “spirit of the estate,” allowing the “transformation of form” to take place organically, “without endangering the essence.”¹¹⁴⁴ This could not, however, become a coalition of fundamentally equal property owners, since what was favored was not property in general, but a specific form of property tied to a particular form of polity. Moreover, an alliance of nobility and bourgeoisie—conservatism and liberalism—against democracy was further complicated by the worker question, which, at least initially and for tactical reasons, the nobility used against the capitalists.¹¹⁴⁵ Yet, in the end, it was precisely the worker question that enabled the long-elusive alliance—though only after the nobility had been absorbed into the new economy and society.¹¹⁴⁶

Let us now turn to the question of how and in what sense conservatism and liberalism, through their mutual and explicitly declared fundamental hostility to absolutism, approached one another—or, conversely, to what extent the causes of this hostility were identical or not. As a brief historical prelude to this issue, it is worth recalling that commonplaces of modern individualist natural law had already found their way into estate-based opposition to absolutism before 1789. For instance, the Prussian estates in the mid-17th century invoked Grotius,¹¹⁴⁷ while the Hungarian estates not only cited Montesquieu but also Rousseau against Joseph I¹¹⁴⁸. Generally, in German political theory of the 17th and 18th centuries—where it revolved around the traditional motif of the *princeps* being bound by law and religion—one can observe an intermingling of scholastic traditions with modern

¹¹⁴¹ 462. *De la nécessité*, 45ff., 94.

¹¹⁴² 463. For a summary, see Moulinié, *Bonald*, 348ff.

¹¹⁴³ 464. *Gespräche*, XV = *Ausg. Schr.*, I, 371ff., 383.

¹¹⁴⁴ 465. *Fragmente*, I = *Ausg. Schr.*, II, 353.

¹¹⁴⁵ 466. See below, Ch. IV, Sec. 3.

¹¹⁴⁶ 467. See below, Ch. IV, Sec. 2d.

¹¹⁴⁷ 468. *Urkunden und Actenstücke*, XV, 445, note 1.

¹¹⁴⁸ 469. Mitrofanov, *Joseph II*, 299ff.

natural law interpretations.¹¹⁴⁹ Similarly, in France, the estate-based opposition made propagandistic use of the doctrines—or rather, the slogans—of Sidney and Locke, significantly contributing to the dissemination and rhetorical consolidation of key terms (*citoyen, loi, patrie, constitution, nation*), which would shortly thereafter take on a revolutionary meaning.¹¹⁵⁰ The conservatives of the pre-revolutionary era could afford to use such liberal slogans (or at least those that would later prove to be liberal in their historical effect) because liberalism, as a political-ideological movement, was not yet strong enough to fully grasp, let alone impose, the specific content of its own concepts. However, the conflict between the bourgeois and noble opponents of the French monarchy in the months leading up to the Revolution already made it unmistakably clear that the originally shared anti-absolutist demands could be interpreted in very different ways.¹¹⁵¹

After 1789, conservatives could no longer invoke similar anti-absolutist positions with the same nonchalance as before, especially since they were now striving for a counter-revolutionary alliance with the monarchy. However, as we know,¹¹⁵² the anti-absolutist tradition remained strong within post-revolutionary conservatism. A common conservative strategy for outmaneuvering liberalism ideologically was to present it—at least insofar as it was “genuine” and not revolutionary (and therefore beyond discussion)—as nothing more than an unoriginal continuation of the old anti-absolutist positions of the nobility. This, however, implied that the safest way to remain a good, freedom-loving liberal was still to follow the nobility with trust. From this perspective, Montlosier sought to interpret the counter-revolution not as a return to absolutism, but as a return to the liberal past, or “*aux anciennes mœurs libres de la France*.”¹¹⁵³ Similarly, Radowitz, who

¹¹⁴⁹ 470. Link, *Herrschaftsordnung*, 99ff. Link does not ask under which concrete conditions this intertwining was possible and what the specific socio-political context and meaning of the referenced topoi were; he seems to believe all of this naturally constituted part of “Western constitutionalism,” without requiring further conceptual or class-based differentiation. He does, however, provide a good account (137ff.) of how, within the framework of the German territorial state, bourgeois ideas and values gained ground more through the ideal of the welfare state than through direct adherence to Locke’s and other liberal eudaimonism. The close connection between old-estate and liberal perspectives in 18th-century German criticism of absolutism is also noted by Valjavec (*Entst. d. pol. Ström.*, 39ff., 50).

¹¹⁵⁰ 471. Birtsch, *Landständische Verfassung*, 53; Bickart, *Parlements, passim*; Carré, *Noblesse*, 325ff.; Palmer, *Zeitalter*, 478f. This symbiosis was anticipated in Jurieu’s work, who, based on his definition of the people and his view of their rights and freedoms, must certainly be classified as a conservative, yet simultaneously draws inspiration from Locke and the modern doctrine of sovereignty; see Mercier, *Théories*, 408ff.; Dodge, *Pol. Theory*, esp. 64ff., 151ff.

¹¹⁵¹ 472. See Ch. II, Sec. 3d and the notes in nn. 174, 175, and 176.

¹¹⁵² 473. See Sec. 2 and 3c of this chapter.

¹¹⁵³ 474. *Monarchie*, VII, 100; see also 109.

also derived “genuine” liberalism from the medieval notion of limiting monarchical power,¹¹⁵⁴ recommended in 1848 an alliance between the monarchist and “old liberal” factions to resist the advance of “liberalism.”¹¹⁵⁵ This meant that the counter-revolutionary party was to overcome its internal division between an absolutist and an estate-based wing in order to unite against revolutionary liberalism—where “old liberal” here meant the same as estate-based or anti-absolutist. As late as 1822, Schlegel referred to the advocates of an estate-based monarchy as the “true” liberals, distinguishing them from the false liberals, i.e., the revolutionaries¹¹⁵⁶. The Gerlachs had this same distinction in mind when they claimed the term “liberal” for themselves. Leopold, who otherwise spoke contemptuously or hostilely of “liberals,”¹¹⁵⁷ nonetheless considered himself a man of “liberal principles” because he highly valued the role of the estates in a monarchy.¹¹⁵⁸ For him, liberalism was acceptable only on the condition that it abandoned “the doctrine of authority from below.”¹¹⁵⁹ Likewise, Ludwig believed that his “genuine liberalism” drove him to oppose absolutist principles.¹¹⁶⁰ He felt like a liberal when fighting against the interference of cabinet orders in legislation and judicial matters.¹¹⁶¹ In extreme cases, he even went so far as to consider an “approximation” to (not entirely “genuine”) liberalism as a means of more effectively resisting “the encroaching absolutism and Bonapartism”—¹¹⁶²especially since, as he now recalled, “even old Germanic legal concepts had found a place within liberalism, albeit in a distorted form.”¹¹⁶³

That Gerlach never pursued this rapprochement in practice was due not only to his temperament or to a temporarily unfavorable constellation of circumstances, but at least equally to insurmountable fundamental obstacles. For in the conservative lexicon, anti-absolutist slogans inevitably took on a meaning that had to be unacceptable to liberals. Directly or indirectly, to a greater or lesser extent, the structural differences between the underlying social models on each side always played a decisive role. Both conservatives and liberals sought to defend freedom and rights against absolutism, the state, and the bureaucratic apparatus—but what kind of freedom, and whose? For conservatives, who rejected the distinction

¹¹⁵⁴ 475. *Gespräche*, X = *Ausg. Schriften*, I, 258.

¹¹⁵⁵ 476. *Fragmente*, I = *Ausg. Schriften*, II, 338ff.

¹¹⁵⁶ 477. *Signatur des Zeitalters*, I = *Werke*, VII, 529; see also 556.

¹¹⁵⁷ 478. For example, *Denkwürdigkeiten*, I, 86ff.

¹¹⁵⁸ 479. *Ibid.*, 48.

¹¹⁵⁹ 480. Letter to Ludwig, 12.10.1858 = E. L. v. Gerlach, *Nachlaß*, II, 950.

¹¹⁶⁰ 481. *Aufzeichnungen*, I, 311.

¹¹⁶¹ 482. *Ibid.*, 231.

¹¹⁶² 483. *Nachlaß*, I, 398; see also 392.

¹¹⁶³ 484. *Aufzeichnungen*, I, 260.

between private and public spheres, the issue was not primarily the state's interference in the economic or religious affairs of individuals as such, but rather the "*acquired rights*" of corporations, which were to be protected from "*arbitrary intervention*."¹¹⁶⁴ The individual was not to be left unprotected either—but could only be safeguarded as a member of a corporation or an estate. When nobles defending their own privileges sometimes used modern individualistic-natural law vocabulary, they did so in all innocence, as it was inconceivable to them that politically relevant individuals could even exist outside the *oikos* leaders. The revolutionary potential of the individualist view only became apparent when individuals of an entirely different kind began to appear on the stage in great numbers. It requires no further explanation that prioritizing the corporation over the individual implied fundamentally different socio-political options—especially since the former called into question the very existence of the modern state, whereas the latter presupposed it. As we know, the defining feature of the modern sovereign state is precisely that all individuals relate to it directly, without intermediary powers. This explains why conservatives and liberals so often talked past each other when they attempted to derive governmental authority from "*the people*." After 1789, conservatives were reluctant to recall this scholastic topos, which had now been reinterpreted—but still, in their terms, "*the people*" had to mean something entirely different than it did under individualist premises. While liberals were by no means opposed to keeping the broad masses out of political affairs, they could not fully trust conservatives as allies in this effort—since such exclusion could only be justified by circumventing or reinterpreting their own principles. They could, therefore, modify their practices—and even ease their consciences—when they deemed the moment opportune to unleash new masses against conservatism. Even the often-proposed joint defense of property against the fourth estate was fraught with ambiguity. If liberals were to sanction the inviolability of property at a time when noble-feudal property still predominated, this could only amount to the bourgeoisie's historical self-destruction. Before the expropriation of feudal property, the guarantee of property rights had to function in an entirely different way than it did afterward.¹¹⁶⁵ This is why a coalition of property owners only truly materialized once pre-capitalist forms of property had practically disappeared—while the enemies of capitalist property had grown strong.

Finally, a tactical-practical reason must be noted for why the shared antipathy

¹¹⁶⁴ 485. See, for example, Schlegel's view on the tasks of government, *Signatur des Zeitalters*, I = *Werke*, VII, 543; for this inevitable discrepancy between the conservative and liberal conceptions of freedom, see v. Martin, *Weltanschauliche Motive*, 141.

¹¹⁶⁵ 486. See Koselleck's remark on Prussia: "*In Prussia, the estate-owning nobility were the winners of the agrarian reform because the property guarantee of the ALR—unlike in the French Revolution—was already in force before the redistribution of land took place*" (*Staat u. Ges. in Preußen*, 72).

of conservatives and liberals toward absolutism never resulted in a close and lasting alliance. The issue here is not the structural difference between the “organic” development of a corporatively constituted polity and the laissez-faire principle, which is centered on individual and autonomous action. Rather, it is the fact that both conservatives and liberals were generally willing to accept deviations from the *organic* or *laissez-faire* principle whenever such deviations served their own cause. As a result, both sides often endorsed strong interventions by the monarchy or state power—so long as these interventions were in their favor. This transformed their shared fundamental opposition to state “arbitrariness” into a competition for the favor of the very representatives of that “arbitrariness,” preventing any real trust from forming between the two anti-absolutist camps. As we have already explained, after 1789, the nobility sought to turn the monarchy into a counter-revolutionary spearhead. However, the bourgeoisie was no less eager to court it and even entertained plans for a “democratic monarchy.”¹¹⁶⁶ The fact that even liberal reforms aiming to respect self-governance and local particularities had to contain a strong centralist-rationalist element—¹¹⁶⁷as well as the bourgeoisie’s clear willingness to align itself with state bureaucracy when it served its interests—led conservatives (particularly in Prussia) to make bitter remarks about the “Officiant-Liberalism” of Hardenberg’s era¹¹⁶⁸ or about the alliance between “liberal bureaucracy” and the bourgeoisie in the 1870s.¹¹⁶⁹ Such phenomena seemed to confirm the long-standing conservative belief that liberalism, or constitutionalism, and absolutism “stem from the same root.”¹¹⁷⁰ What liberals could counter against conservative attempts to use the crown for their own ends is obvious: they could point out that conservatives themselves were willing to instrumentalize the monarchy whenever it suited them.

Against the backdrop of these fundamental oppositions, one can better understand the long debate over constitutional forms, which revolved around the choice between an estate-based (*ständische*) constitution and a representative one. Unlike modern advocates of the supposed “unbroken tradition of Western liberty,” conservatives at the time did not attempt to obscure the fundamental differences between these two constitutional models to fabricate an “organic” transition from the estate-based to the representative system. On the contrary, they emphasized these differences forcefully, recognizing that this was ultimately a confrontation between *societas civilis* and the modern sovereign state, between corporations and

¹¹⁶⁶ 487. For this constellation in Germany, see Kondylis, *Reaktion-Restauration*, esp. 217-219.

¹¹⁶⁷ 488. See Ritter’s apt characterization of the Stein reforms, *Stein*, II, 334ff.; see also nn. ff.

¹¹⁶⁸ 489. L. v. Gerlach, *Denkwürdigkeiten*, I, 106.

¹¹⁶⁹ 490. Wagener, *Erlebtes*, II, 42ff.

¹¹⁷⁰ 491. Leopold to Ludwig v. Gerlach, letters of 9.7.1859 and 29.10.1850 = E. L. v. Gerlach, *Nachlaß*, I, 1018, 716.

individuals, between tradition and voluntaristic imposition—a distinction that corresponded to the actual nature of political developments.¹¹⁷¹ The incompatibility of the estate-based and representative principles had already become clear to conservatives through the French political struggles and events of 1788 and 1789. Thus, in 1796, de Maistre contrasted the old “*représentation nationale*”—in which representatives were elected by specific, estate-bound groups in specific localities—with the new model, which was to represent all individuals without exception and be elected by all—who were both electors and eligible for election.¹¹⁷² This was just one fundamental difference between the two systems, yet it hinted at the full extent of the contrast between tradition and revolution: the equal right of all individuals to representation amounted to the dissolution of the estates of *societas civilis*—in other words, to the establishment of popular sovereignty. In retrospect, Bonald remarked: “*Une fois les trois ordres de l’Etat étaient confondus dans une même assemblée et un seul vote, la révolution était inévitable, par l’excellente raison qu’elle était faite.*”¹¹⁷³ Since then, the structural opposition between estate-based and representative constitutions remained a persistent issue in European political thought for decades.¹¹⁷⁴ Nowhere was this opposition conceptualized more sharply than in Germany, particularly in the debates surrounding the interpretation of Article 13 of the *Bundesakte*, which was associated with various political expectations. Gentz, who from the outset feared that this article would be invoked to “*confuse the unequivocal estate-based principle with purely democratic foundations and forms, and to base claims on this misunderstanding that would be incompatible with monarchy,*”¹¹⁷⁵ was one of the first to articulate the fundamental difference between these two principles of representation. For Gentz, the key distinction was that in an estate-based constitution, corporations—which exist by themselves, arising from the natural foundations of a well-ordered civil society and from the pre-existing, not man-made, fundamental elements of the state—participate in “state legislation” through their delegates, but do not exercise sovereign functions. In contrast, in a representative constitution, the individuals participating in state legislation do not represent the rights and interests of specific estates but rather “*the total mass of the people.*” This

¹¹⁷¹ 492. On the difference between estate representation and the modern representative principle, see generally Gierke, *Genossenschaftsrecht*, I, 818.

¹¹⁷² 493. *Considérations*, IV = *Oeuvres*, Sp. 36–37.

¹¹⁷³ 494. *Observations sur l’œuvre etc.*, *Oeuvres*, VII, 625. See also Ch. II, Sec. 34.

¹¹⁷⁴ 495. See, for example, Cortés, *Carta al director de la ‘Revue des deux Mondes’* (1852), *Obras*, 771, 773.

Arguments were also made in England against the *Reform Bill*, which are only understandable against the background of the antagonism between estate-based and representative constitutions; see, for example, Coleridge, *Talk*, 25.6.1831, 20.11.1831, and 24.2.1832 = pp. 119ff., 143ff., 149ff.; see also Wordsworth, *Two Addresses to the Freeholders of Westmorland* (1818), *Prose Works*, I, 215ff., especially 239ff., 244ff., 251ff.

¹¹⁷⁵ 496. Thus, at the beginning of the *Karlsbader Beschlüsse* of 1819, *Schriften*, II, 162.

applies the principle of “popular sovereignty and equality of rights, or equality before the law,” which, according to Gentz, was not a work of nature, but of violence and arbitrariness.¹¹⁷⁶ The fact that estate assemblies represented themselves rather than “the people” (in the new sense) had long been understood and frequently reiterated.¹¹⁷⁷ However, Gentz introduced a new nuance to the traditional estate-based argument by aligning it with the nobility’s post-1789 efforts to win over the monarchy for a counter-revolutionary alliance. In his view, the estates should only participate in legislation, while the sovereign ruler (*Landesherr*) remained the supreme legislator—explicitly rejecting the revolutionary principle of the separation of powers.¹¹⁷⁸ This position ensured that no concealed transformation of an estate-based parliament into a representative one would be possible, and that the monarch’s sovereignty would remain firmly intact. Prominent liberals, due to their natural-law individualist premises, understood the fundamental difference between estate-based and representative constitutions in the same way as Gentz—though they attached entirely different value judgments to it.¹¹⁷⁹ Consequently, the polemics over this issue continued in Germany, and during the *Vormärz* period, a whole series of writings appeared that reiterated, varied, or further developed the conservative position. These conservative thinkers recognized that when representatives in a parliamentary system no longer defended specific historically established rights and interests, but instead represented “opinions”—that is, the voice, mood, and demands of the entire people—this crossed the threshold into the principle of popular sovereignty. They also understood that this could only occur on the basis of modern statehood—that is, only when a “homogeneous” people, composed of “citizens” who were formally equal in principle, had replaced the corporatively structured people of the past, and when “centralization” had eradicated all “provincialism.”¹¹⁸⁰

Under these circumstances, the constitutional ambitions of the nobility could not signify an opening toward liberalism. On the contrary, they expressed an effort to revitalize the traditional estate-based (*ständische*) principle when absolutism and “liberal bureaucracy” appeared to be advancing in favor of the bourgeoisie. The loud

¹¹⁷⁶ 497. On the difference, pp. 214 and 215.

¹¹⁷⁷ 498. See, for example, Haller, *Restauration*, II, 337.

¹¹⁷⁸ 499. On the difference, 218ff. From the same premises, Schlegel perceived an essential difference between estate-based and representative constitutions in that, in the former, royal power forms the “center and keystone of the entire system,” whereas in the latter, it is simply eliminated; see *Signatur des Zeitalters*, II = *Werke*, VII, 584ff.

¹¹⁷⁹ 500. Mohl believes that the estate-based constitution was the product of specific historical conditions, with the estates representing themselves and their own interests, whereas the representative constitution derives from *ius naturalis*, where all individuals are equally represented (*Dissertatio*, esp. 15, 18, 29, note 11).

¹¹⁸⁰ 501. Vollgraff, *Täuschungen*, esp. 13ff., 24ff., 36ff.; Solms-Lich, *Deutschland*, esp. 16, 20; Jarcke, *Verm. Schriften*, I, 163, 186ff.; Radowicz, *Gespräche*, IX = *Ausg. Schriften*, I, 238.

demand for a “good” constitution was thus accompanied by a sharp denunciation of the “bad” one. The politics of the Prussian nobility during the reform period exemplify this paradigm. By appealing, on the ideal level, to still-vivid memories of the pre-absolutist past, and, on the practical level, to the remnants of the provincial estates—which had never been entirely eliminated, even in absolutist Prussia—the nobility sought a constitution that would protect them against the “arbitrariness” of the administration. Characteristically, and despite warnings from some nobles about excessive estate-based demands, this constitution was not to be based on a (estate-based) all-Prussian national representation, but rather on the provincial estates themselves.¹¹⁸¹ The establishment of provincial and district estates in 1823¹¹⁸² seemed to partially fulfill this goal, but it did not resolve the conservatives’ difficulties. Under the pressure of changing material conditions and what was then called the “*Zeitgeist*,” a process began that gradually altered the function of these newly established estate-based constitutions in the direction of modern representative principles. This development did not go unnoticed by contemporary observers, especially conservatives. Solms-Lich noted that while the constitutions introduced in the South German states after 1815 remained nominally *ständisch*, they incorporated strong representative elements, leading to dissatisfaction on both sides and only intensifying partisan conflicts.¹¹⁸³ More generally, Funke observed that new ideas about representation were entering Germany precisely at the moment when estate-based constitutions were being established, and as a result, these institutions were influenced in their functioning by those ideas. The estates that were being convened no longer consisted of the “clearly defined corporations of the past” but increasingly took on the role of representing “the common good,” in accordance with emerging new political concepts.¹¹⁸⁴ Similar observations about the forced adaptation of estate-based representation to the *Zeitgeist* had to be acknowledged even by Campe.¹¹⁸⁵

The danger of transforming the estate system (*Ständetum*) according to liberal principles of representation triggered renewed conservative warnings against the “heresy” that “the representative system is the true and modern continuation of the old estates.”¹¹⁸⁶ That such a transformation was a real threat became clear in

¹¹⁸¹ 502. Steffens, *Hardenberg*, 27ff.; Vetter, *Kurm. Adel*, 196, 57ff. (see also 146), 62ff.; Misebeck, *Märkische Ritterschaft*, 161ff., 169ff., 176ff., 355.

¹¹⁸² 503. See also Vetter, *Kurm. Adel*, 76.

¹¹⁸³ 504. *Deutschland*, 34ff., 43ff.

¹¹⁸⁴ 505. *Theilbarkeit*, 132ff.

¹¹⁸⁵ 506. *Landstände*, 12. On this development in German constitutional life during the *Vormärz*, see Vierhaus, *Von der altständischen zur Repräsentativverfassung*, esp. 188ff., and Scheuner, *Volkssouveränität*, 319ff., who rightly highlights the particular strength of the monarchical element in Germany.

¹¹⁸⁶ 507. Jarcke, *Verm. Schriften*, I, 183.

constitutional proposals such as those put forth by Görres around 1820. While he fundamentally accepted the estate-based principle and distinguished “*historical liberalism*” from the purely natural-law-based version—considering only the former as a potential partner—he also acknowledged that the third estate was “*deeply embittered*,” knowing that it had “*long outgrown its old conditions*” and sensing that “*the time had come for a new contract to be concluded between the classes of society*.”¹¹⁸⁷ It was evident that a decisive enhancement of the third estate’s role within a new estate-based constitution would directly undermine the traditional function of the estate principle, which rested on the dominance of the noble element. The strengthening of the bourgeoisie, in turn, coincided with the erosion of the economic foundations of noble existence. Radowitz, for his part, saw the impossibility of realizing a *genuine* estate-based constitution in the present era in the fact that the old clear distinctions between knightly estates and peasant land, as well as between rural and urban property, had now disappeared. Acknowledging these changed material conditions, he explained his own shift from being a proponent of the estate-based principle to an advocate of constitutionalism—though not in a liberal sense, but in a way that affirmed the overall representation of the country by the estates and granted them a co-decisive, rather than merely advisory, role.¹¹⁸⁸ Even conservatives like the Gerlachs, who refused to follow this trajectory and insisted on maintaining their “*true conservative constitutionalism*”¹¹⁸⁹ at any cost, had to recognize the direction of political currents. They observed: “*Our General Estates have, in their development, become constitutional*”—yet they remained indispensable, for it was uncertain “*whether the old estate-based constitution in Mecklenburg can be preserved in any way other than by establishing a constitutional representation, at first alongside it, or even, if necessary, above it*.”¹¹⁹⁰ This was effectively an admission of bankruptcy, especially since the increasing bourgeoisification of society made it an admittedly “*difficult task*” to “*capture the true estates within this atomized chaos*.”¹¹⁹¹

Also convinced that the resurrection of the estate-based system (*Ständetum*) would not only reignite “*rivalry between the estates*” but also intensify the “*clash of convictions*,” Stahl devised a constitutional model aimed at overcoming the opposition between the (obsolete) estate-based and the (fundamentally unacceptable) representative system. His model sought to establish a “*constitutional*

¹¹⁸⁷ 508. *Deutschland und die Revolution*, Ges. Schriften, XIII, 79ff., 126ff.

¹¹⁸⁸ 509. *Fragmente*, I = *Ausg. Schriften*, II, 418ff., 389, 393ff.; see also 444.

¹¹⁸⁹ 510. Thus, E. L. v. Gerlach, *Aufzeichnungen*, II, 78 (the opposing concept is “*false French constitutionalism*,” see p. 91). Statements that explain this estate-based concept can be found in the cited *Aufzeichnungen*, I, 12ff., 517, as well as in Leopold’s *Denkwürdigkeiten*, I, 83, 93, 100, 282ff.; see also E. L. v. Gerlach, *Nachlaß*, I, 201, 236.

¹¹⁹⁰ 511. L. v. Gerlach, *Denkwürdigkeiten*, I, 685 (29.10.1851).

¹¹⁹¹ 512. *Ibid.*, 526. The problem of the transformation of the estates was also recognized by the Gerlachs before 1848, see *ibid.*, 116, and E. L. v. Gerlach, *Aufzeichnungen*, I, 421, 456.

principle" as a higher synthesis of the two.¹¹⁹² The institutional details of this framework—where the estates were no longer meant to protect special privileges but rather to "guarantee the general civil legal order"—are not of primary concern here.¹¹⁹³ In terms of its social content, Stahl argued that the nobility could "no longer be a closed or privileged estate" and that the "feudal oppression of the nobility against the peasantry must be thoroughly eliminated." At the same time, however, he opposed merging the emerging "bourgeois aristocracy," which was to stand "on equal footing" with the landed aristocracy, into a "money aristocracy like in France."¹¹⁹⁴ Given the actual course of social development, however, this ambition was akin to attempting to square the circle, and thus Stahl's plans remained practically ineffective.¹¹⁹⁵ They failed to gain significant support, not because of Stahl's own shortcomings, but because of the realities of the time. Liberalism and conservatism, representation and estates, bourgeoisie and nobility—these forces could not reconcile from positions of equal strength. Reconciliation only came once the nobility had already lost, and only then did the illusion arise that some compromise had been *missed* in the past. However, when that past was still the present, there was hardly room for a *tertium quid*—a third option between the two. The July Revolution made this evident—as did the English development, despite its "peaceful" course. A rupture still occurred there as well. That England was neither regarded as an *exception* nor as a *model of organic development* by most 19th-century conservatives will be the subject of the next section.

b. The English Model: Transformations and Ambiguities in Its Evaluation

The conservative assessment of England's socio-political situation largely reflects the unwillingness of conservatives, as conservatives, to align with liberalism and willingly adapt to a development dominated by liberalism. This was despite the fact that many conservatives were quite prepared to acknowledge the legitimacy of the bourgeoisie and liberalism—on the condition that the overall socio-political development remained fundamentally under the control of the nobility. It is, in fact, impossible to properly understand the various conservative attitudes toward bourgeois liberalism without recognizing this crucial difference in perspective. It remains characteristic, then, that (most) conservatives—especially in the second and third quarters of the 19th century, as opposed to those who would later call themselves "conservatives"—did not admire England for its "organic" transition

¹¹⁹² 513. *Mon. Princip.*, IV-IX. Therein, the substance of the polemic against Haller and the Hallerian school, which is elaborated in *Rechtsphilosophie*, see II, 2, 332ff., 365ff.; see also I, 551, 570.

¹¹⁹³ 514. On this, see *Rechtsphilosophie*, II, 2, 272ff.

¹¹⁹⁴ 515. *Parl. Reden*, 56, 60.

¹¹⁹⁵ 516. At least the hard core of the Prussian conservatives did not consider him trustworthy; see E. L. v. Gerlach, *Nachlaß*, I, 188; II, 766.

from a corporative to a liberal-capitalist socio-political order. On the contrary, they abandoned their still-fresh admiration for the country precisely at the moment they considered this transition a (completed) fact. What dominates their judgment, therefore, is not (so much) the “organic” character of the development, but (entirely) its direction. England only became a broadly recognized “conservative” model again after the nobility had (largely) been absorbed into the new society and the new anti-socialist front of all property owners had largely materialized. At that point, the retrospective impression could emerge that the supposedly paradigmatic and “organically” realized union of conservatism and liberalism in England had been a real historical possibility from the outset—albeit one often missed.

The conservative glorification of the English system in the first decades after 1789 was not a self-evident continuation of a deeply rooted preference of the continental nobility for England but rather a polemical-ideological act, which in turn marked a new phase in the otherwise highly variable series of conservative positions on England. If some monarchomachs had seen Elizabethan England alongside Poland or the Holy Roman Empire as a commendable example of the happy coexistence of crown and estates,¹¹⁹⁶ the revolutionary events of the 17th century instilled distrust toward England among the continental nobility. Since the memory of Cromwell was still fresh, the Glorious Revolution could not easily be celebrated on the continent as a victory of the estates against absolutism, particularly as it was already being interpreted in terms of modern natural law and political doctrines—an interpretation that gradually shaped the image of England that would captivate thinkers like Voltaire.¹¹⁹⁷ In response to this early liberal idealization of England, French nobles now lamented the capitalist efficiency and mindset of the English aristocracy (“L'intérêt fait agir leur Noblesse, l'honneur seul guide la nôtre”) and feared that the mixing of estates would turn France into “the theater of revolutions, like England.”¹¹⁹⁸

This unfriendly assessment of England and its ruling class changed abruptly after 1789, for several reasons. First, French émigrés—especially in a time when they desperately needed comfort, ideological support, and a tangible justification for their present existence and historical future—discovered that the aristocratic-hierarchical social structure and way of life had been far better preserved across the Channel than they had previously believed.¹¹⁹⁹ Second, this newfound, largely emotional attachment to England and to “Englishness” was further strengthened and took on a concrete political character when it became evident that England was the steadfast enemy of Napoleon and all the

¹¹⁹⁶ 517. See e.g. Beza, *De iure*, IV = p. 55.

¹¹⁹⁷ 518. On this development of the image of England in France during the 17th and 18th centuries, see Dedieu, *Montesquieu*, Ch. II-III.

¹¹⁹⁸ 519. Carcassone, *Montesquieu*, 226, 229, 258.

¹¹⁹⁹ 520. Baldensperger, *Mouvement*, I, 47ff.

revolutionary principles he embodied—and likely would remain so. Even in Germany, England's unyielding stance against Napoleon was a strong motive for conservative sympathies toward the country.¹²⁰⁰ Third, already in the constitutional debates on the eve of the Revolution—¹²⁰¹and even more so under the journalistic influence of Burke (who, as we know,¹²⁰² had to shift his political emphasis under the impact of the Revolution)—a large-scale conservative interpretation of the English constitution took shape, at least temporarily displacing the previously widespread early liberal one. As an adaptation and elaboration of the English constitutional fiction, this interpretation revolved around two key points: on the one hand, it emphasized the role of the king, in line with the post-revolutionary political needs of the aristocracy; on the other hand, it sought to demonstrate that the English constitution rested on a harmonious balance of all the forces within it. This balance, which was to represent the antithesis of all revolutionary one-sidedness, was in turn presented as the natural product of organic development. If organic development could occur at such a level and with such successful results, then a revolutionary break with tradition appeared all the more harmful and abhorrent. The appeal to the English model as a concrete example of the ancien régime's organic and quasi-inherent ability to reform itself was, of course, not a binding declaration by the aristocracy to significantly alter the ancien régime, but rather a polemical thesis in this sense. As such, it did not contribute to a relativization but rather to an idealization of the supposedly abruptly interrupted ancien régime, which had thus been prevented from fully realizing its potential. On the other hand, it should be noted that the English model, in the sense of a self-reforming yet stable social organism, did inspire some conservatives who were convinced of the urgency of (partial) aristocratic reform in order to maintain its ruling position.¹²⁰³

Against the backdrop of this triptych (emotional Anglomania, anti-Napoleonic sentiment, and the idealization of England's socio-political order for

¹²⁰⁰ 521. Cf. Steig, *Kleists Berliner Kämpfe*, 92ff.; on the conservative notion of England as a "Germanic nation", which continued the Germanic political tradition in the struggle against Napoleon and the Romanic principle, see McClelland, *German Historians*, 43ff.

¹²⁰¹ 522. See e.g. Mallet du Pan, *Mémoires*, I, 159ff., who refers to de Lolme. The meaning of this reference becomes clear when we consider de Lolme's polemic against Rousseau's theory of representation, which is contrasted with the idealized English constitutional model (*Verfassung von England*, II, 227, cf. 263ff.).

¹²⁰² 523. See above, Ch. II, Sec. 5 (esp. the last paragraph) and Sec. 3c of this chapter.

¹²⁰³ 524. On the English inspiration of Brandes, Rehberg, and Stein, see Botzenhart, *Stein*, esp. 91ff., 103ff., 122ff., 131ff., 160, who rightly emphasizes Stein's intellectual independence from Brandes and Rehberg; see also Ritter, *Stein*, I, esp. 152ff., 164ff., 168ff., as well as Christen, *Ständestaat*, 1554 (who mistakenly assumes that Anglophile positions like those of Brandes indicate the real possibility of Germany developing along the English model, without considering the significant socio-political differences between the two countries) and, above all, Vogel, *Kritik*, esp. 97, 116, 196ff.

counterrevolutionary purposes), A. Müller rhapsodized in 1805 about the “divine Britannia,”¹²⁰⁴ while Gentz, in the same decade, praised England’s “harmonious perfection” and regarded it as the highest model of a successful state organization.

¹²⁰⁵ Although at that time these and similar voices set the tone, dissenting opinions were not absent; however, they only began to spread among conservatives after 1815. Bonald had already presented a brief but substantial analysis of the English socio-political system in 1796, arguing that England was a divided nation in which two “pouvoirs” and two “sociétés” competed with each other: the *société politique ou monarchique* may have ruled politically, but it was materially dependent on the radically heterogeneous *société de commerce*—a dualism that, though temporarily balanced, would inevitably end with the victory of one over the other, just as the active power of Parliament would sooner or later prevail over the merely passive power of the Crown.¹²⁰⁶ This assessment of the English system gained traction among French conservatives during the Restoration, particularly as their liberal compatriots were simultaneously striving to revive and modernize the pre-revolutionary bourgeois-anti-absolutist interpretation of the English constitution. It was no coincidence, then, that Bonald resumed his critique of England precisely in his polemic against Mme de Staël, portraying the disastrous effects of the unstoppable rise of the *société de commerce* in the neighboring country. He criticized the progressive atomization of the community, i.e., the dissolution of family cohesion caused by primogeniture, which in turn brought about *mouvement* and *agitation*. The dependency on a global *commerce* resulted in the impoverishment of population groups displaced from the land and in continuous wars to defend the economic positions that had become vital. This led to a social structure that was no longer traditional and to a ruling class that could no longer be the old nobility—that is, the latter no longer constituted a *noblesse destinée à servir le pouvoir*, but rather a *patriciat destiné à l'exercer*.¹²⁰⁷

Montlosier, who generally takes a more conciliatory stance toward the bourgeoisie and holds a higher regard than Bonald for the power of the nobility and social hierarchy in England, nevertheless sees the Revolution secretly at work there and makes allusions to the labor question.¹²⁰⁸ The English constitution is also scarcely to his liking precisely because he essentially agrees with its liberal interpretation: true separation of powers prevails, with sovereignty resting in the hands of Parliament. Given such a weakness in the constitution, England ought to

¹²⁰⁴ 525. Letter to Gentz, June 19, 1805 = *Briefwechsel*, 57.

¹²⁰⁵ 526. Letter to Müller, November 22, 1802 = *Briefe*, II, 392; *Fragments*, XXXVI, 17.

¹²⁰⁶ 527. *Théorie du Pouvoir*, I, 6, 6 = *Oeuvres*, III, 351ff.

¹²⁰⁷ 528. *Observations...*, *Oeuvres*, VII, esp. 647ff., 661ff., 680; cf. *Sur l'état actuel de l'Europe*, II = *Oeuvres*, II, 286, as well as *Pensées*, *Oeuvres*, VI, 39, 45.

¹²⁰⁸ 529. *Monarchie*, V, 185ff.

have perished—had it not sought its salvation in the expansion of trade.¹²⁰⁹ This was Montlosier's clear response to the question that preoccupied his conservative compatriots at the time: to what extent would the introduction of the English constitutional model in France be advisable?¹²¹⁰ Not only he and Bonald¹²¹¹ rejected this introduction. Chateaubriand, too, considered the weakness of the executive—specifically, the Crown—in the English constitution as something not worth emulating.¹²¹² Likewise, de Maistre advised against taking England as a model, despite the fact that he had initially been among the enthusiasts for England,¹²¹³ in contrast to Bonald.¹²¹⁴ Nevertheless, there were still conservatives who remained more or less loyal to the Anglophilia that had prevailed until Napoleon's defeat and who countered the liberal interpretation of the English constitution with an aristocratic one.¹²¹⁵

The shift in sentiment was equally noticeable in Germany. A. Müller summarized it in 1816 in unmistakable terms: "*We erred, under the hopelessness of the years 1806–1812, in believing that England was the true foundation of European freedom and not merely a support and point of reliance for it.*"¹²¹⁶ Even during the time when he was supposedly "*erring*," however, he had significant concerns about the land of Adam Smith and the economic doctrine and practices originating from it.¹²¹⁷ His never-diminished admiration for Burke¹²¹⁸ could not alter his firm impression that England was increasingly becoming a "*great city*," dominated by monetary economy and market forces—forces fundamentally opposed to the landed property system of the Continent.¹²¹⁹ He thus arrived at the conclusion of a deep contradiction between the still-healthy political structure of the country and its "*artificial factory system.*"¹²²⁰ Shortly thereafter, he went so far as to describe

¹²⁰⁹ 530. *Ibid.*, IV, 391ff., 398; cf. V, 153.

¹²¹⁰ 531. On these ideas and attempts, see Bastid, *Institutions*, esp. 32ff., 241ff.

¹²¹¹ 532. *Démonstration philosophique*, XIV = *Oeuvres*, VIII, 90.

¹²¹² 533. *Réflexions politiques*, XVIII = *Oeuvres*, XI, 254.

¹²¹³ 534. Bastid, *Institutions*, 32, n. 4.

¹²¹⁴ 535. See e.g. *Essai sur le principe générateur*, V-VII = *Oeuvres*, Sp. 114-115.

¹²¹⁵ 536. See e.g. Cottu, *De la nécessité*, 32ff. This tendency was apparently in the minority, as can be inferred from the outright Anglophobia prevalent among the legitimists after the July Revolution (Tudesq, *Notables*, I, 229). Among other things, England seemed to them to have become the land of chaotic and inhumane capitalism, a typical example being Villeneuve, *Économie*, I, 22, 24.

¹²¹⁶ 537. *Abhandlungen*, 196

¹²¹⁷ 538. See e.g. the letter to Gentz, July 10, 1810 = *Briefwechsel*, 164.

¹²¹⁸ 539. Braune, *Burke*, 182ff.

¹²¹⁹ 540. Lenz, *Agrarlehre*, 90ff., 24ff.

¹²²⁰ 541. *Abhandlungen*, 128.

England's foreign policy as revolutionary and recalled both the period around 1640 and England's role as the origin of the ultra-liberal United States.¹²²¹ For his part, Gentz already suspected in 1814 that the elements of popular sovereignty embedded in the English constitution, as reflected in the strong position of Parliament, would inevitably influence the liberal movements on the Continent. More than eleven years later, he wrote that the English case demonstrated how democracy could undermine monarchy while nominally preserving it.¹²²² For him in particular, the "unruliness" of the English press could not be trusted.¹²²³ Even Görres, who at the time advocated for press freedom and reconciliation with the bourgeoisie on a constitutional basis, believed that "strong seeds of decay" were developing in formerly healthy England, which he attributed to industrialization, mechanization, population growth, and the intensification of the struggle between "Radicals" and "Stables."¹²²⁴ Friedrich Schlegel, in the 1820s, was even harsher in his judgment of England, though he did not offer anything substantially new, merely amplifying the two central themes of conservative English criticism: the constitutional-political (separation of powers, the strength of Parliament and the weakness of the Crown, so that the English constitution was "nothing other than a perpetually impending revolution prevented from breaking out")¹²²⁵ and the socio-economic ("state materialism," industry, and the "credit revolution," which "has seized and infected most other states, just as the French military revolution made the rounds of Europe")¹²²⁶. Beyond this, Schlegel saw England as the cradle of the two greatest evils of modernity: *the Protestantism of the state and the Protestantism of knowledge*.¹²²⁷

Most conservatives saw the *Reform Bill* of 1832 as confirmation of their pessimistic assessment of the English system and as a cause for even greater concern. While sympathy for England grew within German liberal circles—especially among the *Germanists*—¹²²⁸ conservatives expressed their conviction that the victory of bourgeois-industrial forces in that country would ultimately open the gates to the upheaval and tyranny of the *fourth estate*. To the extent that the *Reform Bill* was perceived as a radical rupture, the aristocratic rule

¹²²¹ 542. Letter to Gentz, July 3, 1821 = *Briefwechsel*, 340.

¹²²² 543. See the letters to Metternich, February 15, 1814, and November 5, 1825 = *Briefe*, III, 1, 246 and II, 2, 262.

¹²²³ 544. *Die Pressfreiheit in England* (1818) = *Schriften*, II, 39ff., esp. 100.

¹²²⁴ 545. *Europa und die Revolution*, *Ges. Schriften*, XIII, 235ff.

¹²²⁵ 546. *Signatur des Zeitalters*, I = *Werke*, VII, 530-3.

¹²²⁶ 547. *Fragmente...* (1824) [1826] = *Werke*, XXII, 203.

¹²²⁷ 548. *Phil. d. Geschichte*, XVII = *Werke*, IX, 387.

¹²²⁸ 549. See the good analysis by Böckenförde, *Verf. Forschung*, 74ff.; cf. McClelland, *German Historians*, 69ff., as well as Wilhelm, *Engl. Verfassung*, esp. 34f., 42, 73ff. On early Anglophile liberalism in Germany, see Valjavec, *Entstehung d. pol. Strömungen*. .

from 1688 to 1832, despite the weakening of the Crown, came to be regarded as fundamentally stable and “*organic*.”¹²²⁹ However, not all conservatives were willing to overlook 1688 in light of 1832; on the contrary, some traced the roots of recent developments back to the *Glorious Revolution*. Jarcke called it “*calamitous and ruinous*,” not only for England but for “*the entire organism of the Christian-Western state order*.” With it, *constitutionalism* was born, such that after 1688, England was “*no longer a purely estate-based monarchy*” but instead stood “*somewhere between that and a representative system founded on revolutionary principles*,” as evidenced by the weak position of the Crown. Only the fact that Parliament remained a *corporate body* and that *Germanic liberty in local self-governance* had been preserved prevented England from descending into “*the horrors of anarchy*.”¹²³⁰ Radowitz summarized this view by defining England as an “*aristocratic republic*” or “*a republic surrounded by monarchical institutions*.”¹²³¹ He argued that England would remain “*a living political entity*” only “*until the absolutist theory of parliamentary omnipotence fully unfolds its consequences*.”¹²³² Self-government, in his view, could not serve as a lasting safeguard against this development, as demonstrated by the example of the United States. What he meant was that self-government gradually transformed into the liberal-capitalist notion of *laissez-faire*, thereby losing its *estate-based conservative meaning*.¹²³³ A spread of materialistic-capitalistic attitudes, moreover, was also becoming apparent within the English aristocracy, which had “*held on to the real aspect*” (i.e., property and offices) while “*the ideal aspect*” (i.e., chivalry and honor) had been “*more or less crippled*.” In contrast, Radowitz believed, the opposite was true for the German aristocracy.¹²³⁴

The triumph of liberalism and capitalism in England seemed to continental conservatives to have reached its peak with the establishment of free trade. “*In England, the revolution first seizes the material conditions*,” wrote Leopold von Gerlach in 1850. He observed that *free trade* was ruining the landowners and expressed his contempt for the conciliatory stance of Peel’s conservatives.¹²³⁵ Nor was he alone in this view.¹²³⁶ Yet, the troubling economic developments did not overshadow interest in the constitutional aspect, since economic and political liberalism, capitalism, and modern constitutionalism were seen as fundamentally related phenomena. In the same year, Leopold von Gerlach predicted that England, like

¹²²⁹ 550. Scheel, *Berl. Pol. Wochenblatt*, 128ff.

¹²³⁰ 551. *Verm. Schriften*, III, 243, 272, 274-6, 278, 392ff.

¹²³¹ 552. *Gespräche...* (1846), *Ausg. Schriften u. Reden*, 20.

¹²³² 553. *Gespräche*, IV = *Ausg. Schriften*, I, 126.

¹²³³ 554. *Fragmente*, I = *Ausg. Schriften*, II, 395.

¹²³⁴ 555. *Ibid.*, 282ff.

¹²³⁵ 556. *Denkwürdigkeiten*, I, 406.

¹²³⁶ 557. E. L. v. Gerlach, *Nachlaß*, I, 200 (August 26, 1849).

the rest of Europe, “*would arrive at absolutism through constitutionalism,*¹²³⁷” arguing that constitutionalism had “*enervated*” England.¹²³⁸ The distinction no longer seemed crucial between continental parliaments attempting to “*build upon a tabula rasa*” and England’s Parliament, which “*in constituting itself abolishes the old constitution.*¹²³⁹” In “*the terrible, rapid fall of England,*” it “*would be no wonder if the already well-organized workers took power instead of the Lords and the Commons.*¹²⁴⁰” Not all, however, saw this danger as imminent. The already noted differences in views¹²⁴¹ on the constitutional question between the Gerlach circle and Stahl were also reflected in certain divergences in their assessments of the English political system. Stahl did not simply dismiss the contemporary English Parliament but instead saw it as a realization of the *healthy constitutional principle* as he understood it: namely, that it represented *both all corporate interests, all property interests, and at the same time a national representation.*¹²⁴² What troubled him, as it did other conservatives, was the subjugation of the Crown to Parliament—the violation of the monarchical principle. Yet, even here, he was willing to acknowledge mitigating circumstances. The weak position of the King in England, he argued, was the product of *an organic development* and was “*not to be blamed in that context,*” though under no circumstances should “*this peculiarity*” of the English constitution be imitated on the continent.¹²⁴³ This example makes it clear that England could not serve as a conservative model, even when viewed from a fundamentally Anglophile perspective. Stahl, incidentally, shared the general conservative view that the *Reform Bill* had initiated England’s decline.¹²⁴⁴

Despite all their criticism of England’s general trajectory, many conservatives felt uneasy about openly distancing themselves from it. It seemed to them as if they were bidding farewell to the most beautiful realization of their ideal—and thus to the ideal itself. When E. L. von Gerlach heard his like-minded peers vilifying England in 1859, he remarked: “*This feels to me like a political suicide attempt.*¹²⁴⁵” Some conservative publications continued to uphold the comforting legend of England as an *aristocratic paradise*,¹²⁴⁶ yet it is telling that Leo, in a programmatic work, went so far as to reject the exemplary nature of the English system *in toto*: its

¹²³⁷ 558. *Ibid.*, II, 716 (Letter to his brother Ludwig, October 29, 1850).

¹²³⁸ 559. *Denkwürdigkeiten*, I, 838 (December 19, 1852).

¹²³⁹ 560. *Ibid.*, II, 13 (February 24, 1853).

¹²⁴⁰ 561. *Ibid.*, II, 97 (December 28, 1853).

¹²⁴¹ 562. See above, note 516.

¹²⁴² 563. *Rechtsphilosophie*, II, 2, 343ff.

¹²⁴³ 564. *Ibid.*, I, 357; *Mon. Princip*, 2ff.; *Parteien*, 142ff.

¹²⁴⁴ 565. *Parteien*, 161f.

¹²⁴⁵ 566. *Nachlaß*, I, 408.

¹²⁴⁶ 567. See e.g. *Staatslexikon*, VII (1861), 56 (Article: “Englische Staatsverfassung”).

forms might be suitable for the English, but beyond that country, they were “*just another form of tyranny*” and “*made nations sick*.”¹²⁴⁷ Likewise, von Berg wrote to E. L. von Gerlach in 1865: “*England is a degenerate, fallen country—that is evident from history... Why portray it in a glory it does not possess?*”¹²⁴⁸ From this judgment, there is a straight line leading to the outright *hatred* of free-trade England and financial capitalism, which became widespread in the *Bund der Landwirte* in the 1890s.¹²⁴⁹ Notably, England was no longer presented as a model by *true conservatives*, but rather by those who, while favorably disposed toward the aristocracy, were also convinced of the inevitable end of its traditional rule and sought to integrate it as painlessly and honorably as possible into the new society. Understandably, these figures praised the openness of the English aristocracy toward other social classes.¹²⁵⁰ A diffuse *Anglophilia* remained within the circles of the high aristocracy, but it was largely aesthetic and atmospheric rather than political—unless those aristocratic Anglophiles also harbored certain liberal sympathies.¹²⁵¹ Thus, the *idealized aristocratic England* finally ceased to serve as the concrete reference point for conservative dreams and hopes—precisely at a time when both conservative England and the specific conservative worldview were dissolving. It is no coincidence, then, that in *Stechlin* (Chapter 27), Fontane has a character remark that England had now become “*the exemplary country for all parties*.”

6. The ideological extrapolations of the monistic conception of state and society.

a. Theological

We have already emphasized with some insistence that the ideological positions of conservatives do not stem from a quasi-anthropologically archetypal, pre-programmed mode of thinking but rather constitute ideological extrapolations of theses with concrete socio-political relevance or generalized responses to questions posed by the socio-political constellation.¹²⁵² This is evident, first and foremost, in conservative theology. Indeed, the turn of conservatives as conservatives toward theological questions was neither the result of a scholarly interest nor the source of groundbreaking achievements in this field; rather, the intensity of this turn stemmed from the connection between theological problems and socio-political polemics, whereby the polemical-political need to speak in the name of God and thus secure an ultimate justification led to a fusion of theology

¹²⁴⁷ 568. *Was ist konservativ?* = *Nominalistische Gedankenspiele*, 52.

¹²⁴⁸ 569. E. L. v. Gerlach, *Nachlaß*, I, 1211.

¹²⁴⁹ 570. Anderson, *Anti-English Feeling*, 153.

¹²⁵⁰ 571. See e.g. Schiffler, *Adelsbegriff*, 94ff.

¹²⁵¹ 572. Gollwitzer, *Standesherren*, 178.

¹²⁵² 573. See Chapter I, Section 1, and Chapter III, Section 1.

and politics. The invocation of God arose automatically in the attempt to defend the *societas civilis*, as it was assumed that the law upon which it was founded was not a human creation but was given by God since the creation of mankind. The attack on this law, therefore, had to be equated with rebellion against God, especially since conservatives reserved for themselves the authority to interpret God's will in a binding manner. And since, according to their interpretation, God's will was only manifested in the law of the *societas civilis*, the defense of God as such seamlessly coincided with the defense of this law. From this perspective, every position that led to the conclusion that law is a product of human reason and human sovereign decree—already since the struggle against Machiavelli in the 16th and 17th centuries—was regarded as open or covert atheism. For every such position implied that no God governs the events in our world, which could be the case for two reasons: either because there is no (personal) God, or because He does not intervene in worldly affairs. Thus, conservative theism found itself in a twofold confrontation—against both atheism (pantheism) and deism. The differences between these two positions were not ignored but were regarded as merely quantitative and ultimately irrelevant. It is of no consequence, Bonald argues, whether a modern philosophy is *athée de principe* or *athée de conséquence* (like deism); in either case, it exhibits the fundamental trait of modern philosophy that makes it atheistic—namely, the will to explain the world immanently without any recourse to divine action.¹²⁵³ By simultaneously preaching atheism and republicanism, this philosophy replaces religion and (divinely ordained) authority with reason and (man-made) law, thereby consciously giving precedence to the earthly over the supernatural.¹²⁵⁴ By “earthly,” however, what is meant is not nature in general but rather man *par excellence*, who alone in all of creation is capable of challenging God. Godlessness consists essentially in man feeling absolutely autonomous and sovereign (in concrete terms: establishing a different law than that of the *societas civilis*), recognizing no master above himself, and thereby destroying authority at all levels—both metaphysical and social—at a single stroke. The rebellion against God thus necessarily goes hand in hand with the doctrine of the equality of men among themselves and with the doctrine of popular sovereignty.¹²⁵⁵ This brings us back to the previously discussed motif of *hybris*,¹²⁵⁶ whose theological illustration is none other than the figure and history of the Devil—who, as the first revolutionary, embodies the true satanic character in

¹²⁵³ 574. *De la philosophie morale et politique du XVIIIe siècle* (1805) = *Œuvres*, VII, 66 (“Modern philosophy is nothing other than the art of explaining everything, regulating everything, without the aid of Divinity”). See also *La Philosophie et la Révolution* (1810) in the same volume, pp. 535–539.

¹²⁵⁴ 575. *Théorie du Pouvoir*, I, 4, 4 = *Œuvres*, III, 244.

¹²⁵⁵ 576. Baader succinctly summarizes this conceptual complex, *Schriften*, 72, note.

¹²⁵⁶ 577. See Section 3a of this chapter

his hatred of everything above him *precisely because it is above him*.¹²⁵⁷

From the perspective of conservative theology in its aforementioned socio-political connotations, it is entirely irrelevant by which philosophical means and technical arguments the dethronement or killing of God is carried out. Idealist-spiritualist and materialist-pantheist philosophical doctrines can equally serve as foundations for atheism and, in this regard, function complementarily. Consequently, their differences from one another and their struggles against each other are considered secondary or even misleading. The inherently ontologically understood autonomy of the human spirit must, in fact, eliminate God just as much as the assumption of the ontological primacy of matter does. And where the concern is not the defense of the (human) spirit but the defense of God, the difference between an idealism that implies either the deification of man or the complete humanization of God and a materialism or pantheistic dissolution of divine personality is of little significance. If rationalism signifies the primacy of man and human reason as the originator of an autonomous order, then from the conservative standpoint, it is rejected in the same breath as atheism and the "so-called philosophy of matter."¹²⁵⁸ This perspective determines the attitude of theologizing and philosophizing German conservatives toward the representatives of classical German philosophy. Some of these conservatives display a keen sensitivity to the political implications of philosophical theories and draw parallels between the practical French and the "German philosophical Sansculottism." Baader, to whom we owe one of these profound parallels,¹²⁵⁹ even goes so far as to claim: "If the Germans lagged behind the French in the practice of revolution... they nonetheless developed the theory of this dreadful practice more thoroughly and thereby more criminally than their neighbors."¹²⁶⁰ He supports this view by pointing to two philosophical positions that, at first glance, logically contradict each other but are nonetheless perceived as equally dangerous to Christian theology: Fichte absolutizes human "spontaneity" and does not see man as a mere executor of the divine law inherent in him but as a sovereign legislator and therefore as God. Meanwhile, Schelling elevates the material world by making it emerge directly and eternally from God as His expression.¹²⁶¹ Friedrich Schlegel,

¹²⁵⁷ 578. Baader, *Bemerkungen*, 467.

¹²⁵⁸ 579. See, for example, Radowitz, *Fragmente*, I = *Collected Writings*, II, 158ff. See also Section 3a of this chapter.

¹²⁵⁹ 580. *Bemerkungen*, 455.

¹²⁶⁰ 581. *Schriften*, 70ff. The highly interesting history of the political reception of classical German philosophy has yet to be written. It is by no means exhausted in the historical fate of Hegelian-inspired movements; moreover, it should also include hostile responses.

¹²⁶¹ 582. *Bemerkungen*, 445ff. See Baader's correlation of rationalism and materialism on p. 477. Despite his sympathy for Hegel, Baader could not refrain from judging that Hegel's philosophy stood under the motto *non serviam* and "could only be considered compatible with Christianity through misunderstanding" (*Über die sich so nennende...*, 516, note).

for his part, lamented that philosophy replaces God with the Absolute—this “dead, abstract concept,” this “lethal abyss of divine truth,” in which “the living God of Christianity and His revelation dissolve.” To him, it was irrelevant whether this Absolute was defined as absolute subjectivity (*Ichheit*), pantheistic natural unity, or absolute reason.¹²⁶²

This was already written under the impression of the now completed Hegelian system—of which, incidentally, Schlegel had earlier remarked that in its atheistic sophistry and in the monstrosity of its all-encompassing rationalism, it confused Satan with the dear God—¹²⁶³ and was intended to retrospectively summarize the entire philosophical development in Germany. However, around 1800, when this development was only beginning to take shape, conservatives were primarily troubled by what they saw as an unrestrained, revolutionary subjectivity and as the expression of a new autonomous and sovereign humanity. This was the target of A. Müller’s early critique, both of Fichte’s subjective idealism—which in his eyes was “nothing but the quintessence, the highest peak of the Enlightenment”—and of Tieck’s “romantic frenzy” and “sentimentality”; in this decisive politico-philosophical perspective, Fichte and Tieck, idealism and romanticism, thus belonged together.¹²⁶⁴ Opposed to this subjective-revolutionary tendency, Müller placed Schelling’s objective philosophy of nature: “Schelling is and remains the first,” he exclaimed.¹²⁶⁵ His friend Gentz shared the same view; he objected to Fichte’s “idealism,” that is, to subjectivity “which wants to cling to nothing real,” as well as to the Schlegel circle’s attachment to Fichte. Instead, he preferred Kant’s “comprehensive equilibrium”¹²⁶⁶ and Schelling’s philosophy, which “encompasses and permeates the world and unites what is divine in nature and in man.”¹²⁶⁷ In the later phase of classical German philosophy, conservatives sought in Schelling a philosophical counterweight not against revolutionary subjectivity theory, but rather against the by-then triumphant and radically (re)interpreted Hegelianism.¹²⁶⁸ The most well-known example of this is Stahl, who saw in Hegel’s “pantheistic system” the dissolution of both personality and freedom. Here, man dissolves into

¹²⁶² 583. *Philosophy of History*, XVIII = *Works*, IX, 412, 413, 425.

¹²⁶³ 584. *Fragmente* (1821), *Works*, XXII, 69.

¹²⁶⁴ 585. Letter to Gentz from June 25, 1803 = *Correspondence*, 16ff.

¹²⁶⁵ 586. Letter to Gentz from February 20, 1803 = *Correspondence*, 8. However, this judgment was slightly modified shortly thereafter, as Schelling’s one-sidedness in certain respects was noted, though not retracted. See *Die Lehre vom Gegensatz* (1804) and the 3rd and 7th lecture on German science (1806), in: *Schriften*, II, 206, *Collected Works*, I, 71ff, 806.

¹²⁶⁶ 587. Letter to Brinckmann from April 25, 1803 = *Letters*, I, 122ff.

¹²⁶⁷ 588. Letter to Brinckmann from October 8, 1803 = *Letters*, II, 166 (see p. 254ff).

¹²⁶⁸ 589. As early as 1828, A. Müller expressed concerns about “Hegel’s influence in Berlin” and recommended teaching Catholic authors like Bonald and de Maistre instead; letter to Gentz from January 28, 1828 = *Letters*, I, 443.

mere conceptual determinations, forming only a transitional stage, acting not from his own volition, while God, in being identified with the totality, loses his personality—so that he must first come to self-consciousness only through man. Stahl does reproach the left-wing Young Hegelians for having completely lost Hegel's respect for the objective, constructing it solely from the subjective—so that God becomes nothing but an anthropological construct and a mere stage in the world-production of consciousness. Yet, on the other hand, the Hegelian system itself had already provided grounds for such an interpretation.¹²⁶⁹ If rationalist *hybris* consists in reason no longer being merely a means and an organ, but rather the source of knowledge, finding its complete content not outside itself but within its own essence—¹²⁷⁰ then this *hybris* had already reached its peak in Hegelian philosophy. On this fundamental issue, Schelling differs from Hegel by adopting a "historical perspective" and positing an objective world outside the subjectivity of consciousness (hence his critique of Fichte);¹²⁷¹ thereby, Stahl argues, limits are set on the arbitrariness and sovereign revolutionary will of the subject. Stahl, however, does not claim that Schelling was a proponent of Christian theism; he evidently saw him as little more than a counterbalance to Hegel, and this remains characteristic of the ambivalent attitude of conservatives toward even the seemingly more pious products of classical German philosophy. That Schelling, too, could not entirely meet the expectations of conservative theology is evident in E. L. von Gerlach's assessment of Schelling's lectures in Berlin in the winter of 1841/42, which were supposed to eliminate left-Hegelian blasphemy: "I had the impression that in Schelling, Christian spiritual needs were at odds with pantheistic fundamental views."¹²⁷²

The conservatives used the term "pantheism" either in its literal sense—that is, to denote the identity of God with the universe—¹²⁷³ or in reference to Hegel's concept of the incarnation of God, meaning God's dissolution into the totality of self-consciousness.¹²⁷⁴ Beyond this, however, they employed the term in a somewhat peculiar and fluid, yet highly characteristic way. In this usage, "pantheism" stood for the cult of the immanent as the only ontologically given—or at least practically relevant—reality, for the "deification of life in its earthly manifestation."¹²⁷⁵ After the removal of a personal God, there was nothing left to

¹²⁶⁹ 590. *Philosophy of Law*, I, 458ff, 464ff, 483ff.

¹²⁷⁰ 591. Same source, 92.

¹²⁷¹ 592. Same source, XVI, 377ff.

¹²⁷² 593. *Notes*, I, 303.

¹²⁷³ 594. In this sense, E. L. von Gerlach accuses Schleiermacher of pantheism, *Notes*, I, 214.

¹²⁷⁴ 595. Aside from Stahl's previously cited remarks, see Radowitz, *Fragmente*, II = *Collected Writings*, III, 65.

¹²⁷⁵ 596. Thus, Radowitz defines Jacobinism as "political atheism," *Fragmente*, I = *Collected Writings*, I, 162.

seek or find in the beyond; either the divine no longer existed at all, or it had to be rediscovered within the immanent world in the form of an earthly, worship-worthy substitute—one that was, however, interpreted and felt in a manner entirely different from the conservative perspective. Once dependence on a personal, transcendent God ceased, earthly forces and values became ends in themselves, no longer subject to the law traditionally associated with the notion of such a God. What remained, then, was earthly life, with the human will as its sovereign shaper and the founder of new law. The following passage illustrates this meaning of “pantheism”: “State, people, king, nationality... These misunderstood words transform in one’s hands into natural substances or idols upon which neither divine nor human law can be applied; rather, they must be judged according to their own peculiar characteristics as monstrosities or Leviathans. Thus, spread by pantheism, arises the ‘vice of patriotism.’¹²⁷⁶”

This pantheistic deification of earthly forces has yet another important consequence. Since the transcendent personal God served as the guarantor of a specific legal order, His removal entails the collapse of that order. In its place now arises a collection of independent individualities, which no longer obey a common higher authority and are fundamentally equal in rights. This idea applies to the coexistence of peoples, cultures, and religions (which it views with skepticism), just as it applies to all individuals within a nation—thus implying the equality of each with each, and consequently, the principle of popular sovereignty. This effect of the “negatively leveling and gray-making pantheism,¹²⁷⁷” which reveals the concrete link between metaphysical stance and socio-political power claims, is well expressed in an article from the *Kreuzzeitung*: “The principle of popular sovereignty is nothing but a spawn of pantheism. Whoever believes in the living, personal God knows that He alone governs the world and recognizes His order in all existing legal relations... Unbelief, pantheism, on the other hand, which considers the totality of the world as God without knowing the personal, living, and almighty ruler, sees in all these arrangements only chance or arbitrary constructs of human wisdom... The earthly world is, for the pantheist, an end in itself, without regard for the beyond. He therefore cannot accept the apparent injustice of class distinctions and unequal distribution of wealth, which results from human sin, but instead seeks equal rights for all people already here on earth.¹²⁷⁸”

It was evidently this broader and multidimensional sense of pantheism that Leo had in mind when he wrote that “the entire atmosphere of the German spirit during the first fifty years of this century was pervaded by pantheism.¹²⁷⁹”

¹²⁷⁶ 597. E. L. von Gerlach, *Notes*, II, 297; see also I, 397, as well as the passage mentioned in the previous note.

¹²⁷⁷ 598. So E. L. von Gerlach, *Posthumous Papers*, I, 197. See Tocqueville’s reflections on the preference of democratic peoples for Pantheism (*Democracy in America*, II, 1, 7).

¹²⁷⁸ 599. *New Prussian Newspaper*, No. 54, September 1, 1848, Supplement.

¹²⁷⁹ 600. Letter to E. L. von Gerlach from January 3, 1853, *Posthumous Papers*, II, 827.

Meanwhile, the conservative struggle continued against pantheism's more moderate but equally dangerous sibling—namely, deism. Although deism allowed the personal God to persist in the background, it still elevated the earthly realm in its own way, subjecting it entirely to the governance of natural laws and rejecting any notion of God's direct intervention in human affairs. Since conservatives had very early on drawn a connection between Enlightenment philosophy and the French Revolution, they likewise took up the fight against deism at an early stage. While this battle had already been waged in the pre-revolutionary period by theologians and physico-theologians, it was now politicized in such a way that it became closely and explicitly linked to political positions and was seen as a structurally necessary aspect of a comprehensive worldview. It is therefore no surprise that Burke had already turned against the deistic neutralization of God, insisting on His presence in every aspect of nature and human affairs: "the Creator never can be absent from the minutest as no more than from the greatest of his Works... the whole scale of Nature is subservient to a moral End..."¹²⁸⁰ In this attempt to somewhat bridge the deistic gap between God and nature, Burke at times—apparently under the rhetorical influence of the Enlightenment's deification of nature, which had found its theological counterpart in physico-theology—lets faint pan(en)theistic tones slip in. This is evident, for example, when he speaks of God and nature in their close cooperation as if they were homogeneous forces with an identical goal and identical mode of action.¹²⁸¹ However, this approximation of God and nature clearly remains within well-defined limits, as it is not desirable in itself but only insofar as it serves to demonstrate the absolute and ever-renewed correspondence of nature with God's commandments. From a conservative perspective, this was meant to make plausible the direct divine origin of the human counterpart to the natural order—namely, the hierarchical social order of estates.¹²⁸² Since the defense of the *societas civilis*'s legal conception was traditionally bound to the defense of God, the divine sanctioning of the estate-based hierarchy was essential. As a result, conservatives could not accept a naturalistic justification of noble rule, which would have excluded God just as much as those deistic constructions that many opponents of aristocratic rule embraced.¹²⁸³ Believing that

¹²⁸⁰ 601. *To an Unknown Person* (1795), *Works*, VIII, 364.

¹²⁸¹ 602. Two references in Jensen, *World and Stateview*, 166f. See *Reflections*, *Works*, III, 284 (*Nature and Revelation*).

¹²⁸² 603. "The awful Author of our being is the Author of our place in the order of existence," Burke, *Appeal...*, *Works*, IV, 165. See also Burke's letter to Laurence from June 11, 1796 = *Correspondence*, IX, 48 ("the God of law and order"), as well as to Span from April 23, 1778 = *Correspondence*, III, 434.

¹²⁸³ 604. This explains the reservations many German conservatives had against Haller, who, they felt, did not sufficiently emphasize the divine character of natural order (see E. L. von Gerlach, *Posthumous Papers*, I, 30, and *Notes*, I, 102, 127; compare also Fr. Schlegel, *Signature...*, I = *Works*, VII, 525). Whether this impression was justified or not is irrelevant

God's continuous and active omnipresence in nature and history served their cause, they had to distance themselves both from the deistic restriction of this omnipresence and from its pantheistic expansion, which stripped it of the character of a deliberate action. This dual concern is reflected in Donoso Cortés' characteristic formulation: "puede afirmarse sin caer en el panteísmo, que todas las cosas están en Dios y que Dios está en todas las cosas"¹²⁸⁴ ("it can be affirmed, without falling into pantheism, that all things are in God and that God is in all things").

Given the socio-political reasons explained above, which drove conservatives toward theologizing, it was only natural to view the entire struggle with the Revolution as essentially theological and to translate it into the language of theological problems. This inclination was reinforced by the impression that the Revolution itself constituted a kind of (bad) religion, since it a) touched upon the religious foundations of the commonwealth with destructive intent, b) had an international character, and c) displayed a sectarian and fanatical spirit.¹²⁸⁵ Moreover, it was claimed that revolutionary democracy was essentially a "caricature of Christian truths," such as the equality of all men before God, etc.¹²⁸⁶ Understandably, such comparisons—which ultimately had to compromise the "true" religion—could not be taken too far, and thus remained sporadic. Conservatism could not and was not allowed to confront the Revolution through the potentially self-destructive means of ideological critique; rather, this confrontation took place on the level of analogies between the theological-metaphysical and the socio-political—analogies ultimately based on the simple and convenient assumption that since one's own cause rested on God, the enemy must be godless, and that his (blasphemous) conception of God must determine his (disastrous) actions just as the (true) conception of God could only motivate and sanction action in the conservative sense. The attempt to construct an exact analogy between the theological-metaphysical and the socio-political arose from the conservative desire to subordinate the latter to the former—based on the assumption and under the condition that God thinks conservatively and the conservative thinks divinely, while, on the other shore, the opposite must be true. In the interest of proving that the noble-dominated social order was anchored in divine will—indeed, in the very essence of God—Bonald had already early on

here (after all, Haller often and clearly speaks of God as Creator and Ruler of Nature, see for example *Restoration*, I, 340, 392, 396; II, 378); times had become difficult, and even a freely spoken or largely secularized language could lead to ideological complications. For more on conservative reservations against Haller, see below in this section under (c).

¹²⁸⁴ 605. *Essay*, I, 1 = *Works*, II, 499. See the historically significant later polemic against the *causae secundae* on p. 539.

¹²⁸⁵ 606. Burke, *Thoughts on the French Affairs*, *Works*, IV, 319; *On the Policy of the Allies*, *Works*, IV, 449. See in general Barth, *Idea*, 76.

¹²⁸⁶ 607. Radowitz, *Fragments*, I = *Collected Writings*, II, 274f, see also 2116.

developed a structural parallel between God, man, and the *société naturelle* or *politique*, as well as between theology, anthropology, and social doctrine.¹²⁸⁷ However, the structural connection between these levels within their own worldview also implied that the enemy, too, had to adhere to an equally closed construction—albeit with inverted signs.¹²⁸⁸ Based on this view of the structural interconnectedness of worldviews between friend and foe, Bonald arrived at the linkage of democracy (or Jacobinism) with atheism, royalism (= conservatism) with theism, and constitutionalism with deism.¹²⁸⁹ This threefold analogy, formulated as early as 1805, was frequently repeated or modified in the following decades.¹²⁹⁰ With systematic intent and within a systematic framework, it was later taken up again by Stahl¹²⁹¹ and Donoso Cortés¹²⁹² under the impact of 1848.

In conclusion, it must be recalled that theism and atheism, beyond all the analogical constructions cleverly devised at the writing desk, also served in existential seriousness as party banners and symbols of allegiance. After Ultra-General Donnadieu crushed the republican resistance in Grenoble with extreme harshness (on May 4–5, 1814), he reported to Paris: “Long live God! For three days, the blood has not ceased to flow. Long live the King! The corpses of his enemies cover all the streets around Grenoble.”¹²⁹³ As a response to this, one may consider the statement of a refugee from Baden in Zurich exile, who claimed that

¹²⁸⁷ 608. *Theory of Power*, I, 1, 1 = *Works*, III, 23ff.

¹²⁸⁸ 609. See theses such as: *modern philosophy confounds in man, spirit with organs; in society, the sovereign with the subjects; in the universe, God himself with nature* (*Legislation Primitive, Preliminary Discourse* = *Works*, I, 165).

¹²⁸⁹ 610. “*On the moral and political philosophy of the 18th century*” = *Works*, VII, 79.

¹²⁹⁰ 611. Thus, for example, Radowitz calls Jacobinism “*political atheism*”, *Fragments*, I = *Collected Writings*, I, 162. Baader also draws a parallel between Atheism and Democracy (*On the current times...*, 84 note). Furthermore, he adopts the comparison made by *Avenir* between Pantheism and the centralized state (*Writings*, 247); elsewhere, he speaks of a correspondence between the mechanical, impersonal, unfeeling God of philosophers and the equally mechanical modern state (*Writings*, 391).

¹²⁹¹ 612. *Parties*, 108ff, 178: *what begins in Liberalism as a deistic “detachment from fear of God,” deep profanity, and domination of material interests culminates in the democratic apotheosis of the human race, which takes the place of God*. Conservatives had pointed this out early, such as Barruel in 1791 (see the passage cited by Beik, *French Rev.*, 48).

¹²⁹² 613. In an initial formulation of this analogy (*Discurso sobre Europa*, *Works*, II, 459), Cortés indeed linked Liberalism and Deism without hesitation, but he distinguished Pantheism as the counterpart to the Republic and Atheism as the counterpart to Anarchy (= Communism). This distinction is missing in the *Ensayo* (II, 8–9 = *Works*, II, 595ff), where only Liberalism/Deism and Socialism/Atheism are juxtaposed. In agreement with the general conservative view, Cortés also maintains that Atheism consists both in the direct denial of God and in the identification of God with humanity.

¹²⁹³ 614. Cited in Hermes, *History*, I, 30.

the great guiding idea of the Baden revolution had been: "There is no God."¹²⁹⁴

b. Anthropological

If conservative theology constitutes a worldview-based extrapolation of the postulate of the divine origin of law, that is, of the impossibility of its sovereign establishment by man, then conservative anthropology is shaped around the closely related principle that law cannot be a product of autonomous human reason precisely because man is not merely a rational being. In other words, conservative anthropology seeks to challenge the existence and effectiveness of that human faculty which, according to revolutionary rationalism, was supposed to serve as the real, given bearer or originator of law—created purely from this-worldly considerations and aims. Burke's views on this matter were foundational for conservative thought after 1789, though, characteristically, they had been firmly established decades before the Revolution. As early as 1769, they were summarized as follows: "Politics ought to be adjusted not to human reasonings but to human nature; of which the reason is but a part, and by no means the greatest part."¹²⁹⁵ When Burke began his struggle against the Revolution, he placed this idea at the forefront: against revolutionary reason, which sought to break with the natural order of things, he opposed conformity with nature, "which is wisdom without reflection and above it."¹²⁹⁶ This wisdom, unlike the shallow and cold revolutionary reason—which, in its anthropological rootlessness, was necessarily violent in its external effects—differs both in its moral content and in its deep anchoring in human nature. It thus goes hand in hand with virtue,¹²⁹⁷ it corresponds to the "natural sense of wrong and right",¹²⁹⁸ and it springs from the profound source of 'moral sentiments, feelings of humanity, the moral constitution of the heart.'¹²⁹⁹ This wisdom therefore holds both ethical and cognitive value, as "to feel inwardly" is more significant than merely "to know."¹³⁰⁰ Burke's concept of wisdom or reason (when he uses the term positively) thus encompasses a broader and deeper range of human faculties compared to mere rational thought—faculties that existentially mediate the recognition of truth and, accordingly, determine action.¹³⁰¹ It is precisely in this multilayered anthropological rootedness that

¹²⁹⁴ 615. Bekk, *Movement*, 17 note.

¹²⁹⁵ 616. *Observations on a Late Publication ...*, *Works*, I, 398.

¹²⁹⁶ 617. *Reflections*, *Works*, III, 274. See also *Works*, V, 407.

¹²⁹⁷ 618. See the formulations in: *Reflections*, *Works*, III, 278, 297, 356, 392, 559.

¹²⁹⁸ 619. *ibid.*, 339.

¹²⁹⁹ 620. *ibid.*, 338.

¹³⁰⁰ 621. *ibid.*, 350.

¹³⁰¹ 622. See Hilger, *Burke*, 13f. The concept of *artificial reason*, which Burke also uses as a positive notion of reason, is borrowed from Coke (see Chapter II, Section 4d) and means

anti-intellectualist reason becomes the foundation of social life. For religion, which forms “the basis of civil society,” is grounded in the deeper layers of human existence, whereas atheism violates not only (healthy) intellect but also “our instincts.”¹³⁰² But what is anchored within instinct itself, within the very constitution of human nature, does not have to be rediscovered each time through personal observation and judgment; it is given—as a socially mediated prejudice, which contains and expresses the quintessence of collective, historically preserved reason. Since prejudice permeates all of existence unreflectively and imperceptibly, it forms a far more effective and stable ethical motivation than “naked reason” and is thus capable of holding the commonwealth together without coercion.¹³⁰³ From this perspective, religion—this ideal “basis of civil society”—must indeed appear as “the grand prejudice, and that which holds all the other prejudices together,” while the atheistic nature of Jacobinism already manifests in its intellectualism—that is, in its rejection of this conception of prejudice.¹³⁰⁴

These theses were promptly taken up by contemporary conservatives and henceforth became a topos of counterrevolutionary argumentation. In Germany, two well-versed readers of Burke, namely Gentz and Rehberg, opposed Kant’s a priori or purely rational justification of morality and moral autonomy, as well as natural law and human rights, by emphasizing the multiplicity of human nature, which must inevitably thwart the realization of any one-sided intellectualist theory.¹³⁰⁵ But the French classics of conservatism were no less engaged in the battle against revolutionary intellectualist rationalism. De Maistre argued that good legislators do not act based on cold a priori considerations but rather “par instinct et par impulsion”, while simultaneously urging the people not to rely on that “raisonnement”, which “banishes reason”, but instead on the “l’instinct infaillible de la conscience”.¹³⁰⁶ For him, as already in Burke, reason (in a positive sense) and ethically charged instinct are synonymous. Bonald, in a dedicated essay, composed a hymn of praise to prejudice, to which he attributed crucial social functions within

exactly the same as in Coke’s use, namely the demand for the subordination of individual reason to historically developed collective reason, crystallized in institutions of society (*societas*). *Artificial* here does not stand in opposition to *organic*, nor is it a synonym for subjective or arbitrary (*against nature*); rather, *artificial reason* stands against the revolutionary *natural reason*, whose bad naturalness—its roughness and lack of restraint—is countered by the insight of *artificial reason* into the structural law of what has been gradually and artfully created by humans over time.

¹³⁰² 623. *Reflections*, Works, III, 350, 351.

¹³⁰³ 624. *ibid.*, 47.

¹³⁰⁴ 625. *Letter to W. Smith...* (1795), Works, VI, 367.

¹³⁰⁵ 626. See, in summary, Vogel, *Critique*, 83. See also Jarcke’s much later polemic against Kant, *Miscellaneous Writings*, III, 5ff.

¹³⁰⁶ 627. *Considerations*, VI and VII = Works, Sp. 49 and 69.

an overall anti-intellectualist orientation.¹³⁰⁷ It is not worthwhile to trace the variations of these stereotypical motifs here. However, one philosophical implication of the conservative campaign against the “cold” revolutionary reason should be briefly examined, as it relates to broad intellectual currents—past, contemporary, and later. Since conservative thinkers, on the one hand, deny the anthropological primacy of the intellect, while, on the other, believing in humanity’s ability to at least practically grasp and follow the divine laws of world order, they arrive at the assumption that there exist higher forms of knowledge and cognition—ones that surpass the capacities of discursive thought and alone are capable of proceeding constructively and advancing, whereas “mere” thinking must not only fail but also fragment and destroy. From an epistemological perspective, the contrast between revolutionary and conservative attitudes thus appears as one between lower and higher knowledge. This is already implied in Burke’s dual use of the concept of reason (sometimes in a positive, sometimes in a negative sense); however, it is made explicit in A. Müller’s philosophically ambitious opposition between “concept” and “idea”. Whereas concepts are products of the intellect, abstract and rigid definitions that apply to things without movement, inner life, or organic history, ideas are capable of grasping realities that move and grow. Thus, the state and “all great human affairs,” whose “essence cannot be wrapped or compressed into words or definitions,” can only be understood through ideas.¹³⁰⁸ If we now examine the distinction between higher and lower knowledge from the perspective of the cognitive faculties employed by the knowing subject, it becomes clear that higher knowledge of the idea is not attained by mere reason, but rather by a belief which, however, “must never and nowhere be separated from reason”. This belief, in turn, does not relate to individual things, but to a whole, to “a specific world order”.¹³⁰⁹ The reference to the universal order and the contemplation of individual things as they exist within it was also identified by Coleridge as the essential characteristic of “Reason”; it is precisely in this way that Reason distinguishes itself from “Understanding,” which only examines phenomena in their isolation and then classifies them. This distinction between Reason and Understanding corresponds directly to Müller’s contrast between “Idea” and “Conception”: while the former thinks from an ultimate purpose and thus undertakes generalizations, the latter remains with

¹³⁰⁷ 628. *On Prejudices* (1810) = *Works*, VII, 570-577. See the analysis by Spaemann, *Origins*, 136, 126f. Later in the 19th century, French Catholics who sought to combat revolutionary rationalism had to consistently embrace Fideism and depart from Thomism, which brought them into disfavor with the Church. On Bautain and Bonnelly, see Ferraz, *History*, II, Chapter VI, p. 317.

¹³⁰⁸ 629. *Elements*, I = p. 16f; see also *Writings*, II, 258.

¹³⁰⁹ 630. See the letter from Müller to Gentz from April 17, 1817 = *Correspondence*, 241. See also Baader’s interesting remarks on the role of affect and love in cognition (*Collected Writings*, I, 394f, and V, 251).

means and the fragmenting, abstract work of the “Understanding”, whose products, it goes without saying, were the Enlightenment and the Revolution.¹³¹⁰

Let us now return to the conservative view of the secondary nature of the intellect and consider its close connection with the theses on the divine origin and sociability of man. These two theses are equally directed against the claim of human reason to shape the world sovereignly or to construct it a priori, as both assert the original anchoring of reason in supra-individual contexts, independent of human will. It is precisely the insight into these connections and their willing affirmation that is supposed to allow human reason to shed any intellectualist character, avoid the danger of hubris, and thus become “true” reason, that is, to remain constantly in touch with the deeper layers of human existence, which are the most difficult to detach from the supra-individual contexts mentioned above. From this perspective, it becomes understandable why the conservative argument against the revolutionary claim to create law based on the dictates of autonomous reason must culminate in the theses on the divine origin and the sociability of man. Man’s objective bond to his Creator and to the world order established and maintained by Him is meant to serve as a constant reminder of the supra-individual conditions of his actions and thoughts. Meanwhile, the assertion of the social nature of human reason, which can only develop, operate, and refine itself within a group, is intended to demonstrate the impossibility of thinking rationally outside of the *societas*—and thus of wanting to change the *societas* on the basis of a thinking that has arisen outside of it.¹³¹¹ Thus, conservative sociology emerges and takes shape based on the thesis against the feasibility of law and the sovereignty of reason, namely, that man “stands in the midst of civil life, interwoven on all sides with the state”.¹³¹² There is therefore no abstract-autonomous reason, because there is no abstract-autonomous man—no one who can be conceived outside of all ties to the group, no one whose thinking and actions are not fundamentally determined by the given social reality. As Möser remarked in 1790 in his commentary on the new French constitution, an individual’s participation in the commonwealth could not be conceived on the basis of merely being human as such; rather, other characteristics—such as citizen or property owner—must be added, which directly pointed to man’s social rootedness.¹³¹³ De Maistre, for his part, mocked the idea of “man”, claiming he had never encountered such a being in his life, for he had only ever known Frenchmen,

¹³¹⁰ 631. See *Statesman’s Manual*, Appendix C = *Collected Works*, VI, 59f, 63f, 75, in connection with *Church and State*, I and IV = *Collected Works*, X, 12f, 59.

¹³¹¹ 632. On the dual grounding of human reason in the socially and metaphysically understood supra-individual, see Baader, *Writings*, 194ff.

¹³¹² 633. A. Müller, *Elements*, II = p. 22.

¹³¹³ 634. On *The Right of Humanity*, etc., *Works*, IX, 140ff, see also 158f. See Lorenzi, *Economic History Perspective*, 83f.

Italians, Russians, etc.—that is, geographically and historically determined men.¹³¹⁴ And Bonald reproached 18th-century philosophy for having always considered only individuals and not “persons bound together by relationships”. He further criticized it for having given these individuals the abstraction of “humanity” as their sole affective reference point—precisely in order to destroy their traditional and constitutive ties to family, estate, and nation.¹³¹⁵

The conviction that abstract revolutionary anthropology aims at this destruction makes clear the concrete socio-political motivation of conservative sociology. While in revolutionary natural law, anthropological abstraction serves as a theoretical projection of the socio-political demand for (formal) equality, and thus for the abolition of noble-traditional rule, the conservative theory of man as socially rooted and therefore concrete ultimately leads to the defense of the hierarchy of the *societas civilis*. In other words: since conservatives can conceive of the social only in its estate-based, “organic” structure, their conviction about the sociability and thus concreteness of man expresses the desire to maintain the *societas civilis*. The anthropological thesis thus automatically merges with a socio-political purpose—or, put differently: the theoretical thesis on man’s sociability is simply the reverse side of the normative claim that the individual must submit to the existing social hierarchy.¹³¹⁶ Even more: since the only conceivable form of socialization is the *societas civilis*, this conservative sociologism *avant la lettre* must be pushed to the extreme, asserting that man’s social rootedness is absolute and all-encompassing. For the *societas civilis* does not recognize the separation of state and society, which in turn would imply the separation of public and private, legality and morality, or public action and personal conscience. In this framework, man and citizen cannot be separated,¹³¹⁷ because the *societas civilis* itself is a unified whole. Its members, therefore, precisely because of their concrete and all-encompassing social rootedness, remain complete and unified existences within a monistic, homogeneous community.

Since conservative anthropology is designed to theoretically support certain socio-political desiderata, it does not form a logically closed system but instead fluctuates according to the polemical needs of the given situation. The shortcuts that allow the covert transition from the factual to the normative are paired with

¹³¹⁴ 635. *Considerations*, VI = *Works*, Sp. 50.

¹³¹⁵ 636. *On the Perfection of Man* (1810) = *Works*, VII, 516ff.

¹³¹⁶ 637. Conservatives frequently indulge in such simplifications (although it must be noted that they are not a specific feature of conservative thought but rather characterize normivist ideological positions in general; which forms they take in non-conservative thinking cannot be discussed here). See, for example, how Baader derives from the thesis of *the social nature of reason* the duty of individual intelligence to adhere to the dominant (and not revolutionary) ideas (*Writings*, 89f, 93, see also 183).

¹³¹⁷ 638. On Burke’s views in this regard, see the excellent analysis by Hilger, *Burke*, 32. See also Bonald, *Legislation Primitive* (*Preliminary Discourse* = *Works*, I, 233).

ambiguities that arise in the effort to refute opposing positions, which themselves are ambiguous but define and arrange the terms of ambiguity differently. Although conservatives, in opposition to what they consider revolutionary rationalism or intellectualism, emphasize the emotional-sensory aspect of man and the world of lived experience, they nevertheless feel compelled to adopt an entirely different language when it comes to exposing Enlightenment empiricism and its obvious materialist implications as a philosophy of atheism. In such cases, the interconnection of sensation and thought, or body and soul, is emphatically denied, with Bonald arriving at an almost spiritualist definition of man as “une intelligence servie par ses organes”.¹³¹⁸ Another reason for the emphatic contrast between the “spiritual” and the “animal” in man lies in conservative aversion to eudaimonism, which they see as a theory that legitimizes the sovereign activity of the secular state in the name of general (material) welfare.¹³¹⁹ However, this argumentative line is not consistently maintained, as conservatives simultaneously attempt to refute the Enlightenment-revolutionary idea of human perfectibility through anthropological arguments. Authors who, in opposition to the utilitarian-eudaimonist zeitgeist, stress that man is not an animal, must, in the same breath, oppose the anthropological optimism of the Revolution by pointing to the constant domination of blind instincts in man, as well as the weakness of his will and intellect.¹³²⁰ The claim that man is “mauvais, terriblement mauvais”¹³²¹ was frequently presented as merely a reformulation of the Christian doctrine of original sin, in which Stahl saw the ideological “principle of reaction”.¹³²² Cortés, who reached new rhetorical heights in addressing this question, made it clear that this dark anthropology was directed against the looming deification of man, which became inevitable if man were endowed with a divine attribute par excellence—namely, “la bondad ingénita y absoluta”.¹³²³ In this sense, the conservative position fulfilled its polemical task adequately, yet at the same time, it raised new questions. For how could the radical historical originality of revolutionary Satanism be explained based on the invariable sinfulness of man since Adam’s fall? For centuries, the same sinful and wicked men had lived within the *societas civilis*, under the commandments of divine law—that is, according to the will of the Church and the nobility. Something additional must have come into

¹³¹⁸ 639. *Philosophical Inquiry on the First Objects of Moral Knowledge*, especially chapters V, VI, VII, IX = *Works*, V, 172ff, 183ff, 195ff, 230ff.

See also the *Preliminary Discourse of Legislation Primitive* in the first volume. De Maistre argues similarly, *Evenings*, II and IV = I, 120ff, 297.

¹³¹⁹ 640. See Chapter 4a of this book.

¹³²⁰ 641. See, for example, Brandes, *Consequences*, 21ff in connection with 71ff.

¹³²¹ 642. So de Maistre, *Evenings*, II = I, 83.

¹³²² 643. *Parties*, 68.

¹³²³ 644. *Essay*, I, 10 = *Works*, II, 611; see also 535.

play to give rise to the specific revolutionary *hybris*. Put differently: if one were to take seriously the connection between sinfulness and revolution, one would have to assert that revolution is as permanent a state in history as sin itself. And yet, conservatives only dated the Revolution as a concrete historical event no earlier than modern times, and at the same time longed for the good old pre-revolutionary era—even though, according to theological premises, that era too must have been steeped in sin.

On the basis of the thesis concerning the anthropological and epistemological inferiority of the intellect, conservative thinkers attempted to develop a specific praxeology. They assumed that within society as a whole, theories and theoretical pursuits held the same subordinate significance and function as the purely intellectual element in an individual's life. Philosophical theory could even be dangerous, Bonald argued, as it tries to force into its abstractions questions that by their very nature can only be decided according to ethical and practical criteria—all the more so because theory itself is derivative, meaning that it arises from a social foundation that, in turn, cannot be created by theory: "la société n'aurait pas encore commencé, s'il eût fallu attendre que les philosophes fussent d'accord seulement sur la définition du mot de 'société'".¹³²⁴ Jarcke was equally skeptical that "a theory confined to the realm of mere knowledge possesses the power to transform the world"; for, as he put it, "the living phenomena in history precede theory. It is not the theories of the intellect that make history, but the desires and inclinations of the heart."¹³²⁵ The consequences of this assessment of theory's place within social life—and what they meant for a properly functioning theorist—had already been hinted at a few decades earlier by Möser. He did not deny that "true theory" and practice must align, or that "every experienced person bases his actions on a theory"—but only under the strict condition that the theoretical framework does not overlook reality, but instead takes its starting point from it and from practice itself.¹³²⁶ It is not difficult to see that this conception of the primacy of practice over theory—just like the related theses concerning the primacy of the existential over the intellectual, or of the social over the individual—ultimately leads to the demand to recognize the existing order as the foundation of all possible 'true' reflection. That is, it entails the rejection—necessarily external to the existing order, and thus unreal—of any idea of overturning the prevailing conditions from the outset. In this sense, conservative historicism does not imply relativism or skepticism; on the contrary, it contains a decisive normative aspect. When A. Müller expects political science to "see its object in motion" and to "depict things as they exist in time", he does so from the conviction that the becoming of the past serves as a guide for the becoming of the present and future. For this reason, he also connects his analysis of historical events with the question of the unity of

¹³²⁴ 645. "If philosophy is useful for governing society" (1810), *Works*, VII, 501.

¹³²⁵ 646. See *Miscellaneous Writings*, I, 47f.

¹³²⁶ 647. On *Theory and Practice*, *Works*, X, especially 142f, 148f.

theory and practice: theory is enriched by practice, which is nothing other than ‘the internal political conditions as they have come into being.’¹³²⁷ From the perspective of conservative normative historicism, the inseparability of theory and practice can only mean that any autonomization of theory—as in revolutionary natural law—is impermissible, indeed ultimately impossible, and doomed to failure.

A similar conception and motivation underlie the stereotypical conservative opposition between the abstract and the concrete, whose epistemological weaknesses have already been noted.¹³²⁸ Here, “abstract” refers to anything devised by reason detached from reality, that is, reason hostile to the existing order, which seeks to challenge this reality by opposing it with its own intellectual constructs and attempting to realize them *ex nihilo*. Burke, who formulated the key conservative arguments against such bad abstractions, acknowledged the necessity of general ideas and principles as ordering constants within the ever-shifting diversity of appearances. However, he saw the difference between the “statesman” and the mere theorizing “professor” in the fact that the former, in assessing the applicability of general principles to life, always takes into account the given “circumstances”.¹³²⁹ “Circumstances... give in reality to every political principle its distinguishing colour and discriminating effect. The circumstances are what render every civil and political scheme beneficial or obnoxious to mankind.”¹³³⁰ For in moral and political matters, things are true or false only with respect to their consequences; thus, in the social realm, truth and falsehood are not judged in themselves, but according to their capacity to produce good or evil.¹³³¹ However, the conservative response to revolutionary abstract principles raised just as many problems as it solved. It fulfilled its polemical function more or less adequately by forcing natural-law normativism into a kind of emergency landing. Yet, at the same time, it was hardly consistent with the very principles conservatives themselves relied on when attempting to formulate their own position. For if the distinction between (theoretically) true and (practically) good were pursued to its logical conclusion, it would deprive the appeal to the divine-natural order as the ontological foundation of the *societas civilis* of all meaning—reducing the legitimacy of the conservative stance solely to secular-utilitarian considerations. But conservatives were not willing to go this far, especially since they believed themselves to possess the truth and thus saw themselves as the exclusive interpreters of the divine will. Secondly, the demand to consider real conditions contained an unspoken but by no means self-evident assumption—namely, that

¹³²⁷ 648. *Theory of Money*, 46.

¹³²⁸ 649. See Chapter I, Section 1.

¹³²⁹ 650. *Speech on the Petition of the Unitarians* (1792), *Works*, VII, 41

¹³³⁰ 651. *Reflections*, *Works*, III, 240.

¹³³¹ 652. *Speech on the Petition...*, *Works*, VII, 55; *Appeal...*, *Works*, IV, 169, 80f; see also *Letter to the Buckinghamshire Meeting* (1780), *Works*, VI, 294.

these conditions were homogeneous enough to be subsumed under a single common denominator and interpreted accordingly. Thus, the conservative reference to “real conditions” was itself abstract, insofar as it avoided the only truly concrete question: who is authorized to determine the objective nature of these conditions? It was simply taken for granted that under all circumstances, revolutionary abstractions—that is, non-conservative interpretations of reality—were to be rejected and that the term “conditions” could only refer to the non-revolutionary or counterrevolutionary status quo. As a result, there was no satisfactory explanation as to which conditions had produced the Revolution itself. Nor was it ever seriously considered what should be done, from a conservative perspective, if “the” conditions made revolutionary solutions unavoidable or sanctioned them *a posteriori*. For in such a case, it was evidently necessary to disregard “the” conditions altogether in order to remain faithful to conservative principles—which, in fact, often happened.

Conservative anthropology reached a polemical peak when, based on the premises outlined, it attempted to demonstrate that the revolutionary belonged to a specific human type, distinct from the normal individual. Accordingly, the revolutionary is essentially characterized by his devotion to theoretical abstractions, which results in the dominance of cold intellect and a corresponding withering of the feelings of the heart. The consequences of this spiritual disposition are fanaticism and crime—¹³³²and the spread of this revolutionary spirit among the people, according to the same schema, produces “a black and savage atrocity of mind, which supersedes in them the common feelings of Nature.”¹³³³ However, conservatives regarded this spread as a pathological and temporary phenomenon, since, due to the anthropologically given inferiority of the intellect, abstract philosophizing could only ensnare a small minority.¹³³⁴ In their depiction of the revolutionary process, they thus tended to project the opposition between intellect and feeling into the social arena, replacing “intellect” with the revolutionary minority of abstract thinkers, from whom the healthy mass of the people, as the bearer of tradition and custom, or simply of uncorrupted “feeling,” distinguished itself. It was therefore mere deception and arrogance when the revolutionary minority spoke in the name of the people or claimed to defend popular rights; in reality, it had nothing whatsoever to do with the people and their natural sentiments, as could also be seen in its parasitic social composition (*literati, provincial lawyers, etc.*).¹³³⁵ This profound and irreconcilable foreignness between the revolutionary minority and the people explains the double-faced attitude of the former toward the latter: they pretend to want to give all power to the people,

¹³³² 653. Typical Bonald, *Theory of Power*, I, 4, 4 = *Works*, III, 256f.

¹³³³ 654. Burke, *Reflections*, *Works*, III, 435.

¹³³⁴ 655. So Brandes, *Zeitgeist*, 105.

¹³³⁵ 656. Burke, *Reflections*, *Works*, III, 251, 286.

while at the same time treating them with the greatest contempt.¹³³⁶ This revolutionary misanthropy is ultimately rooted in the high moral demands of revolutionary theory, which accepts no half-measures and no compromises; thus, excessive hatred of evil turns into a lack of love for mankind.¹³³⁷ Above all, ambitious “political men of letters” ultimately reveal themselves as theologians in the worst sense of the word, namely as intolerant schemers and fanatics, ready to eradicate by any means anything that stands in their way.¹³³⁸ Thus, conservatives, based on their observations of the “political significance of writers”,¹³³⁹ concluded that the “tyranny of intellectuals” was far harsher than the rule of the birth aristocracy: “The reign of priests was gentle and ennobled by faith, whereas that of great minds would be consuming, like the self-love of scholars.”¹³⁴⁰ One might hold differing opinions on this matter, but that is not the concern here. What matters is the structural relationship between the antithetical concepts “esprit de parti” and “esprit de corps”¹³⁴¹ and certain anthropological assumptions, which in turn can only be understood in connection with specific social conceptions and choices. Incidentally, in the aforementioned conceptual pair, both the psychological and sociological aspects are addressed simultaneously and equally.

c. Philosophy of history

While the theological and anthropological assumptions described so far were fairly widespread among theorizing conservatives and can easily be recognized as characteristic components of conservative worldview, conservative philosophy of history remained more of a marginal phenomenon. That is, such historical speculations were independently developed by only a few conservatives and did not achieve broad reception or use. Nevertheless, they structurally belong together

¹³³⁶ 657. *ibid.*, 305.

¹³³⁷ 658. *ibid.*, 458.

¹³³⁸ 659. *ibid.*, 377, 379. Burke is generally considered both the initiator and the culmination of this psychological-sociological critique of intellectuals; however, it must be emphasized that the core motifs he used were already anticipated almost verbatim in Mallet du Pan's 1782 analysis of the Geneva events. With brilliant style, du Pan examines the *métaphysiciens politiques* and the philosophers who became theologians, the inevitable transformation of democratic aspirations into tyranny, the leaders' contempt for the people, the peculiar mixture of vengeful fanaticism and humanistic preaching, etc. (*Memoirs*, I, 69f, 71, 78, 79, 82). A similar analysis of *politique philosophique* and revolutionary intolerance as embodied by a class of writers was undertaken again by Mallet du Pan in September 1789 (*Memoirs*, I, 179f, 185, 200f, 203).

¹³³⁹ 660. So Brandes, who treats this question comprehensively and representatively, *Consequences*, 44ff.

¹³⁴⁰ 661. Jarcke, *Miscellaneous Writings*, III, 618.

¹³⁴¹ 662. Bonald, *On the Spirit of Corporatism and the Spirit of Party*, *Works*, VIII, 282ff.

and can thus be collectively referred to as conservative philosophies of history in a specific sense. Just like conservative theology or anthropology, they too emerge as worldview-based extrapolations of positions on socio-political questions and events. In this case, the catalyst is the desire to interpret the Revolution as a historical event and historical reality in such a way that it does not appear—as it does in its own self-conception—as the necessary climax of an ascending historical process and the beginning of a new, blissful age. Instead, the conservative view presents it as an inevitable and divinely ordained, yet ultimately temporary catastrophe, which must be followed by the restoration of the one eternal divine-natural order. In concrete terms, this perspective implies that the future, like the past, despite all the upheavals of the present, ultimately belongs to the conservatives and not to their enemies. To philosophically secure this interpretation of history, the linear construction, which was meant to guarantee the victory of progress—that is, of the Revolution—was replaced by a triadic schema. In this schema, the Revolution is positioned between two essentially counter-revolutionary states of nature—one in the past and one in the future—thus, when viewed in the grand scheme of history, the Revolution is isolated and neutralized.

The refutation of the linear philosophy of history based on progress was an urgent ideological task, and for this reason, it was also undertaken by conservatives who otherwise had no philosophical ambitions regarding history. Thus, Brandes pointed out the connection between the spread of the idea of progress and the promotion of democratic sentiment, for “progress proved the increasing maturity of humanity, its ability to manage its affairs more and more by itself, without commanding rulers.”¹³⁴² However, Brandes considers this progress to be an illusory notion; to him, history appears as “a constantly recurring, ever-renewing rise and fall,” though he denies this movement the regularity of a natural phenomenon and does not accept as a universal law the necessary transition of nations from barbarism to a flourishing period, then to refinement, and finally to decline.¹³⁴³ This rather relativistic view of historical development may have theoretically disposed of the idea of progress, but it did not guarantee the eventual victory of the conservative cause. It was precisely the philosophical proof of this victory that more speculatively inclined conservatives sought to establish—conservatives who, accordingly, set out to introduce reassuring regularities and periodizations into the overall movement of history. The mechanism of thought at work here is clearly visible in de Maistre’s construction, according to which the Revolution as a historical fact or even as a historical period can only be overcome philosophically by assuming a necessarily ensuing epoch and thus a structured course of history. The explicit starting point of this philosophy of history is, in this case, the desire for such an overcoming. The

¹³⁴² 663. *Zeitgeist*, 224f.

¹³⁴³ 664. *ibid.*, 209/11.

revolutionary present, de Maistre notes, is characterized by chaotic conditions and a lack of religion, but such a state is intolerable and unsustainable in the long run; therefore, something new must come, and the existing signs already point in this direction, signs that align with the prophecies of the Apocalypse—the Revolution itself belongs to these signs.¹³⁴⁴ Due to a mystical triadic numerology, de Maistre thus expects, following the revelation at Sinai and that through the Son of Man, a third revelation—“une troisième explosion - de la toute-puissante bonté en faveur du genre humain... Tout annonce... je ne sais quelle grande unité vers laquelle nous marchons à grands pas.”¹³⁴⁵ The divinely guided course of history thus reveals a double impotence of the Revolution: temporally, the post-revolutionary epoch is already imminent, and functionally, the Revolution itself serves goals that are precisely opposed to it. The old idea of divine providence prevailing in history is now renewed with the specific aim of demonstrating the impossibility of the Revolution exercising conscious and autonomous historical agency. We will have to return to this point later in this section.

Fr. Schlegel undertook the systematic development of a conservative “philosophy or science of history,” which would be based on supernatural principles and thus be called “metaphysics of history.”¹³⁴⁶ He, too, is primarily concerned with the question of what the Revolution is, whether it has had lasting effects, and what will come after it. If the Revolution is classified as the work of Satan, and God remains omnipotent, as He always has been, then it must necessarily be assumed that in the end, the good will triumph and that the next phase of history will bring a “restoration.” However, the very notion of a restoration implies a circular movement, as opposed to a linear one, and Schlegel, fully aware of this, justifies his view through Christian anthropology. The idea of progress, he argues, is only valid if man is regarded as a mere animal, since only an animal requires a long, gradual process of development to reach perfection. If, on the contrary, man’s original essential likeness to God is assumed, then progress is neither desirable nor possible—the only goal remains the restoration of the divine image, and this goal can only be achieved through a cycle, not through a linear movement.¹³⁴⁷ In connection with the socially and politically charged question of human sovereignty and the deification of mankind, the fundamental issue is formulated as follows: Is man something that can be made? Does man create himself over the course of progressive development? Or is he made by God and must simply rediscover himself? Based on his theological-anthropological premise and in view of the expected “restoration,” Schlegel divides the course of history into three great periods, each marked by one of the three foundations of human

¹³⁴⁴ 665. *Evenings*, XI = II, 190.

¹³⁴⁵ 666. *ibid.*, 198f, 201.

¹³⁴⁶ 667. *Fragments* (1827) = *Works*, XXII, 389.

¹³⁴⁷ 668. *Philosophy of History*, VII = *Works*, IX, 152f.

nature. During the first period, the time of the Word, man hears eternal truth through tradition and revelation. During the second, his strength reaches its highest unfolding, which may also lead to destruction. During the third, in which love is to reign, he beholds the light of purer truth.¹³⁴⁸ This third time is imminent, for the Revolution was precisely “the bursting abscess of the old corruption at the beginning of the new, that is, of the last age.” Thus, the “small, childish human revolution” will now be followed by the “great, solemn divine revolution.”¹³⁴⁹ Schlegel indulges in apocalyptic visions of the “new kingdom” and the “thousand-year Sabbath” and attempts various numerologically inspired divisions of world history, aiming to make its end appear inevitable in its symmetry.¹³⁵⁰ In the final stage, history must once again rest in the bosom of the Eternal, from which it originally emerged. This could not be otherwise, if one were to take its total dependence on divine providence seriously. Nonetheless, what remains significant is the specific moment in which this dependence is recalled, as well as the fears and expectations that have given this remembrance its intensity.

A short time after Schlegel, Görres also opposed the idea of progress in history, which begins with the self-unfolding of a primordial substance and ends with the deification of man and paradise on earth,¹³⁵¹ by presenting a triadic schema of historical development

At the beginning stands the omnipotence of God, light, and purity;
in the middle, God’s love, division, and struggle (among men);
and at the end, God’s justice and the return to transfiguration.¹³⁵²

The emphasis placed on the vigorous presence of providence in history¹³⁵³ is directed both against the deification of man by progress theorists and against the fear that evil might ultimately determine the course of events. Unlike nature, which is governed by God’s laws, man is free and can therefore also choose evil, but this cannot undo God’s plans; for while the good serves His will deliberately, evil serves it unknowingly and unwillingly.¹³⁵⁴ The victory of the good must, of course, be beyond doubt if history is to be understood as the revelation of the divine, or as “temporal history being nothing other than the eternal history flowing through time and space in the freely created and as free created being.”¹³⁵⁵ However, even

¹³⁴⁸ 669. *ibid.*, 159.

¹³⁴⁹ 670. *Fragments* (1826) = *Works*, XXII, 313, 181.

¹³⁵⁰ 671. *ibid.*, 24, 3248, 746, 7A, 13546, 161; 524, 12646, 242, 325ff.

¹³⁵¹ 672. *On the Foundations, Structure, and Chronological Sequence of World History* (1830) = *Collected Writings*, XV, 249/51, 253f.

¹³⁵² 673. *ibid.*, 249. Within this triad, Görres designs a structure of *infinite time* as a sequence of *large cyclical periods...*, at whose nodal points the historical epochs emerge (271).

¹³⁵³ 674. *ibid.*, 248.

¹³⁵⁴ 675. *ibid.*, 258.

¹³⁵⁵ 676. *ibid.*, 273.

though the happy end of history is assured, Görres does not connect it to an imminent defeat of the Revolution, instead acknowledging his ignorance about the precise course of future events and the moment of history's fulfillment, which remains a divine mystery.¹³⁵⁶ To what extent this historical-philosophical restraint can be attributed to his earlier reform plans, which would require considerable time—perhaps even an entire historical epoch—for their realization, we cannot say with certainty. Nonetheless, Görres differs on this crucial point not only from de Maistre and Schlegel but also from Donoso Cortés, who, about two decades later, developed a triadic historical schema structured likewise around an innocent primordial age, a fall from it, and ultimately a restoration under the aegis of God—though Cortés' schema applies only to Christian history. Here, the free religious life within the framework of the original community is followed by the gradual departure from religion, which in turn leads to the rise of political tyranny and the oppressive omnipotence of the modern state.¹³⁵⁷ The Revolution represents the lowest point of this decline—yet at the same time, it must unintentionally serve as the herald of the last things. This follows from Cortés' conviction that the ongoing battle between Catholicism and socialism constitutes the decisive confrontation between the forces of light and the forces of darkness. It must end with the victory of the former, since the Revolution—that is, mankind's rebellion against God—cannot circumvent or overthrow the laws of creation and the omnipotence of the Creator.¹³⁵⁸

The deeper reason why history cannot, in the long run, develop further in the direction of the Revolution, but must instead make a reversal and return to its uncorrupted origin, lies in the necessity of its alignment with the divine laws that govern the universe—laws that are capable of redirecting even apparent deviations from the established order back to its benefit.¹³⁵⁹ Cortés looks up to this theodicy with hope, recalling that God has already once taken human transgression as an occasion to demonstrate His goodness and reaffirm His order. Through this perspective, Cortés aligns himself with a tradition of conservative theorists who have made theodicy their ultimate and strongest argument against the Revolution and its secular ideology of progress. Burke had already granted theodicy a fundamental role in worldview, referring to nature as the embodiment of divinely willed order, encompassing the physical, moral, and political worlds alike.¹³⁶⁰ This order is objectively given and originally contains a moral dimension,¹³⁶¹ so that “the immutable Laws of Nature and the principles of Essential Justice” can be spoken of

¹³⁵⁶ 677. *ibid.*, 290.

¹³⁵⁷ 678. *Discourse on the Dictatorship*, *Works*, II, 316/9.

¹³⁵⁸ 679. *Essay* (Conclusion), *Works*, II, 701f.

¹³⁵⁹ 680. *Essay*, II, 7 = *Works*, II, 592.

¹³⁶⁰ 681. All references in Jensen, *World and Stateview*, 168ff, 225ff, 242ff.

¹³⁶¹ 682. The references *ibid.*, 207f, 188f.

in the same breath.¹³⁶² Burke therefore saw himself as entirely justified in claiming that the political system he favored stood “in a just correspondence and symmetry with the order of the world,¹³⁶³” since for him, natural order and social hierarchy were inseparable.¹³⁶⁴ Against this background of natural law, the conclusion was inevitable that the Revolution was “a foul, impious, monstrous thing, wholly out of the course of moral nature.¹³⁶⁵” A lasting triumph of the Revolution would thus require the dissolution of the present structure of the universe, which seemed utterly impossible; and it was precisely the conviction of this ontological impossibility that nourished conservative confidence—at least on the level of historical-philosophical speculation.

De Maistre’s confidence in this regard, whose apocalyptic features were just discussed, was also based on a theodicy that, just like in Burke’s case, was tied to the assumption that nature serves God’s plans and that order is “l’élément naturel de l’homme”,¹³⁶⁶ therefore, evil had no real existence but was merely “le schisme de l’être.”¹³⁶⁷ In his later years, de Maistre devoted extensive reflections to the question of theodicy, seeking to demonstrate that with respect to universal order, there is no injustice, and that the suffering of the virtuous is either due to their participation in “le péché originel” or is merely apparent, as an eternal life of bliss awaits them.¹³⁶⁸ Aware of the progress-optimistic conclusions that could be drawn from such a theodicy—conclusions that had already troubled Leibniz’s theological opponents in the 18th century—¹³⁶⁹ de Maistre felt compelled early on to counter “tout est bien” with the sinfulness and wickedness of man, as well as with the prevailing disorder in the world.¹³⁷⁰ He also wanted nothing to do with universal lawfulness, at least if such an idea would undermine faith in miracles and thus in God himself—¹³⁷¹ yet at the same time, he also had to defend faith against the claim that disorder and evil would prove God’s powerlessness or even malevolence.¹³⁷² This was a struggle on multiple fronts at once, made even more hopeless by its entanglement in the old casuistry of theodicy. For despite all its twists and turns, the origin of evil remained a mystery. However, evil was not attributed to God but

¹³⁶² 683. See Burke’s undated letter to an unknown recipient, *Correspondence*, X, 40.

¹³⁶³ 684. *Reflections*, Works, III, 275.

¹³⁶⁴ 685. The references in Jensen, *World and Stateview*, 173ff.

¹³⁶⁵ 686. *Appeal...*, Works, IV, 70f.

¹³⁶⁶ 687. *Considerations*, X = Works, Sp. 75.

¹³⁶⁷ 688. *Considerations*, IV = Works, Sp. 38.

¹³⁶⁸ 689. *Evenings*, I = I, 42, 47; II = I, 744f; III = I, 166f; IV = I, 200, 205, 209.

¹³⁶⁹ 690. Kondylis, *Enlightenment*, 473.

¹³⁷⁰ 691. *Considerations*, III = Works, Sp. 33.

¹³⁷¹ 692. *Evenings*, IV = I, 197, 210.

¹³⁷² 693. *Evenings*, VIII = II, 96f.

to human freedom—¹³⁷³yet while the assumption of free will could explain the possibility of choosing evil, it could not explain why, in the midst of God's good order, man actually and sometimes even stubbornly chose evil.

The emergence of the Revolution on the historical horizon had to remain just as mysterious if one was truly convinced that the divine-natural order was all-encompassing and indestructible.¹³⁷⁴ There were notable attempts at a sociological interpretation of this astonishing and terrifying phenomenon,¹³⁷⁵ yet

¹³⁷³ 694. See, for example, Schlegel, *Philosophy of History*, XV = *Works*, IX, 339; Cortés, *Essay*, II, 4 = *Works*, I, 567, 570.

¹³⁷⁴ 695. As Haller put it: *The state of nature has never ceased; it is the eternal, unchangeable order of God himself... humans would strive in vain to ever depart from it* (*Restoration*, I, 340). The failure of the Revolution, according to Haller, lay in its *unnaturalness*, in its opposition to *the omnipotence of nature* (*ibid.*, I, 260f). However, Haller himself stated (*ibid.*, I, 273, note 24) that he had written these lines as early as 1811, at a time when Napoleon was in power, intending to argue that the victory of Napoleonic Caesarism demonstrated the impossibility or unnaturalness of popular sovereignty and the necessity of personal-monarchical rule (*ibid.*, I, 272).

Yet, with this remark, Haller made a very dangerous admission. In his zeal against popular sovereignty, he confused the *naturalness* of rulership in general—which could have a revolutionary origin and character—with the *necessity* of what he understood as *natural* rulership. Based on his own premises, Haller could not consider just any rule and hierarchy as natural. For conservatives in general, it was no comfort that after the dissolution of their own rule, their enemies would take on the task of continuing *the work of nature*—this could no longer be *true* nature. Precisely because Napoleonic Caesarism, in relation to *societas civilis* (which supposedly set the standard of the natural in the social sphere), was no less revolutionary than popular sovereignty itself, Haller later celebrated its downfall rather than seeing it as a defeat of nature, as he should have, based on his 1811 view.

This example shows the difficulties that constantly accompanied the practical application of the conservative view of divine-natural order after 1789. These difficulties were also evident in every attempt to recognize the sterility of one-sided restorative efforts, to account in some way for post-revolutionary reality, and to seek possible practical compromises: in purely theoretical terms, such attempts had to be regarded as betrayals of God or nature. In this respect, Haller was correct when, after 1849, he upheld the patrimonial ideal and argued that the increasingly common recognition of *the impossibility of the old order* by conservatives gave the revolutionaries the upper hand. Why, he asked, should *the natural, that which was created by God and has existed for millennia, be impossible?* (Letter to E. L. von Gerlach from November 28, 1849, in his *Posthumous Papers*, II, 645)

¹³⁷⁵ 696. Burke defined Jacobinism as *"the revolt of the enterprising talents of a country against its property"* and divided these *talents* into *two sorts of men*: the philosophers and literati who undermined the religious foundations of the *ancien régime*, and the politicians who recognized the necessity of an alliance with the philosophers to achieve their own power aims (*Letters on a Regicide Peace*, I and II = *Works*, V, 309, 363).

Bonald, somewhat more one-sidedly, emphasized the role of philosophers—again, socially rootless elements—as the originators of the evil; given the close connection between *société politique* and *société religieuse*, he argued that the undermining of the latter had to lead to the collapse of the former (*Theory of Power*, I, 4, 4 = *Works*, III, 248ff). However, Bonald does not

these were generally not pursued further. The main reason for this was not always a lack of analytical ability, but rather the primacy of the concept of the divine-natural order and theodicy in conservative thought. No explanation of the Revolution could be considered satisfactory unless it made sense within this framework. The conspiracy theory represented a degenerated form of sociological explanation, as it emphasized the role of the uprooted intelligentsia. However, its primary function was not analytical—rather, it condensed all possible fears and hallucinations of the aristocratic circles in the first years after 1789, circles that could hardly believe the scale of the catastrophe. Since they were unwilling to admit their own guilt or fundamental weaknesses of the ancien régime, they could only attribute the immense and otherwise inexplicable misfortune to dark machinations.¹³⁷⁶ Yet a similar mood, that is, a sense of helplessness and bewilderment, also gave rise to a mystical or fatalistic tendency to attribute this rationally inexplicable event to an unfathomable divine plan or to God's intention to punish the community for its sins.¹³⁷⁷ It is therefore unsurprising that abbé Barruel, the most notable proponent of the conspiracy theory, claimed that God had used the Revolution to inflict well-deserved punishment upon unbelief.¹³⁷⁸ However, it was not clearly explained whether the entire community was being punished for the sins of a small sect (in which case, a direct punishment of the sect would have been more just and straightforward than punishing an entire nation) or whether the entire community was so corrupt that it had to be punished as a whole (in which case, the covert conspiracy of a small minority would not have been necessary to bring about the nation's downfall). Either way, this punishment theory at least established a connection between the pressing problem of the Revolution and the central theological and historical-philosophical issue. This

explain why the members of a *societas* for whom religion is vital would, in a practically dangerous way, heed its enemies rather than neutralizing them. Chateaubriand avoids this difficulty with the (not widely accepted) admission that only a general moral decay at court and in the country had made possible the spread of irreligious ideas by people who lacked firm social and moral ties (*Essay on Revolutions*, I, 70, and II, 63 = *Works*, XIII, 170f, 262).

Unmatched in its virtuosity remains Mallet du Pan's consistent sociological explanation of the Revolution as "*a displacement of power*" (*On the Character of the French Revolution and Its Successive Developments*, *Memoirs*, I, 394), which would be worth a detailed discussion. His sociological explanation of the early successes of the revolutionary armies (*Reflections*, Sections 4 and 5) stands at the same level of thought. It is easy to understand why such an ideologically unexploitable interpretation failed to excite most conservatives and thus found no imitators in their ranks.

¹³⁷⁶ 697. Baldensperger, *Movement*, II, 14f. The persistent reluctance to acknowledge any shortcomings in the *ancien régime* that might explain the Revolution in any way ensured the continued appeal of conspiracy theories even during the Restoration period; see Mellon, *Political Uses*, 724.

¹³⁷⁷ 698. Baldensperger, *Movement*, II, 654.

¹³⁷⁸ 699. *Compendium*, II, 407. See also Bonald, *Theory of Power*, I, 7, 7 = *Works*, III, 396.

connection was further reinforced by the claim that the Revolution was “evil,” “mauvaise radicalement,” or even “satanique,¹³⁷⁹” making it clear that its explanation, like the explanation of evil itself, could only be provided through theology.

The paradox now lay in the fact that God, in order to punish sinners, temporarily made the most sinful—the “atheists”—the rulers of the earth; thus, the (long-term) punishment of sin occurs through its (short-term) reward. This paradox could only be reconciled with the concept of theodicy through the assumption that “there is a destiny for mankind and a God who raises it toward this eternal destiny through struggle and suffering, and even through apparent downfall and apparent death.¹³⁸⁰” The historical-philosophical updating of theodicy, in turn, required belief in the heterogony of ends—that is, the idea that the Revolution had to bring about something objectively different from what it consciously intended to achieve, and that its agents, in pursuing or even realizing their own goals, were in truth instruments of providence. Only on the basis of this belief could the successes of the Revolution not be interpreted as a reward for sin and sinners. This concept of the heterogony of ends, which had long been a component of Christian philosophy of history, was deliberately revived by conservative theorists to justify theodicy and thus also the ultimate victory of their own cause from a historical-philosophical perspective. De Maistre formulated the general law that secretly guides the actions of free beings within the bosom of providence as follows: “ils font réellement ce qu’ils veulent, mais sans pouvoir déranger les plans généraux.” For providence, “tout est moyen; même l’obstacle: et les irregularités produites par l’opération des agens libres viennent se ranger dans l’ordre général”. Applied to the Revolution, this law seemed to promise something reassuring: “ce ne sont point les hommes qui mènent la révolution, c’est la révolution qui emploie les hommes. On dit fort bien, quand on dit qu’elle va toute seule. Cette phrase signifie que jamais la Divinité ne s’était montrée d’une manière si claire dans aucun événement humain. Si elle emploie les instrumens les plus vils, c’est qu’elle punit pour régénérer.¹³⁸¹” In this way, an old topos of Christian

¹³⁷⁹ 700. Burke, *Appeal...*, Works, IV, 81; Maistre, *Considerations*, IV and V = Works, Sp. 39, 41.

¹³⁸⁰ 701. Gentz in a letter to Brinckmann from April 30, 1805 = *Letters*, II, 266; see also the letter to the same recipient from August 25, 1803 = *Letters*, II, 147f: “A universal deluge, whether physical... or civil and political, must soon overturn the earth, so that from the decay... entirely new seeds may bloom again, etc. etc.” See also the two letters from Müller to Gentz from July and November 4, 1806 = *Correspondence*, 82, 87.

The same idea was already expressed by Novalis within a triadic historical schema: “That the time of resurrection has come, and that precisely those events that seemed directed against its revival and threatened to complete its downfall have become the most favorable signs of its regeneration—this cannot be in doubt for a historically-minded soul” (*Christianity or Europe*, Works, III, 43)

¹³⁸¹ 702. *Considerations*, I = Works, Sp. 13, 16f. Similarly, Bonald, see *Theory of Power*, I, 3,7 = Works, III, 201, and *Primitive Legislation*, I, 8, note i = Works, I, 340, where the sentence directly

philosophy of history found new relevance in the face of the contemporary crisis. However, given the polemical use of identical conceptual structures with reversed conclusions, it is worth remembering that the Enlightenment philosophy of history had also adopted the secularized concept of the heterogony of ends—only to prove the exact opposite, namely, the inevitable victory of progress.¹³⁸²

What, according to conservative understanding, allowed for the channeling of all human action, including revolutionary action, toward higher ends was the active presence of divine providence in historical events. In this crucial respect, and despite all conservative appeals to the historically evolved against the abstractions of revolutionary reason, the claim that conservatism had replaced God with history—just as revolutionary ideology had deified the people or humanity—is undoubtedly false.¹³⁸³ History, understood as the operation of supra-individual and impersonal forces (geography, economy, culture, etc.), was in fact the great discovery of the Enlightenment, despite the romantic legend that portrays the Enlightenment as ahistorical. This discovery was made precisely in the effort to demystify the theological notion of divine guidance over great and small human affairs.¹³⁸⁴ Thus, the actual autonomization of history—its elevation to a self-sufficient universe in which mankind as a species took center stage—was not a conservative counterpart to the revolutionary deification of the people or humanity, but rather a necessary complement to that revolutionary position, and it was achieved through struggle against conservatism. It is true that the conservative opposition to the ahistorical universality of revolutionary rational ideals led to a turn toward historically developed individuality, often drawing upon Enlightenment historiography without fully acknowledging its origins. At the same time, however, conservatives never abandoned the idea of a divine-natural order, for had they done so, they would have had to part with the concept of providence, which was both the strongest argument against the revolutionary philosophy of progress and their greatest hope in the fight against the Revolution itself. The difference between conservatives and their opponents was not that they rejected the idea of a universal order, but that they regarded this natural order as already existing, while the revolutionaries saw it as something yet to be created—a difference, incidentally, that mirrored that between the present ruler and the aspirant to power. As a mediation between the concept of historical individuality and that of a universal divine-natural order, there eventually arose the construction of German historicism regarding nations that exist immediately before God, a

related to the problem of theodicy is also found: "*Revolutions, which are the great scandals of society, bring it back to the good, for only the good is necessary.*"

¹³⁸² 703. Kondylis, *Enlightenment*, 462.

¹³⁸³ 704. Thus, Carl Schmitt, in one of his elegant but, as so often, misleading intellectual-historical schematizations, see *Political Romanticism*, 86. Rohden follows him, *Maistre*, 215.

¹³⁸⁴ 705. Kondylis, *Enlightenment*, 421ff.

framework in which the integration of historical individuals into a transcendent order was preserved—yet could be either tightened or loosened at will. To remain solely at the level of historical individuality would have led to relativistic and skeptical conclusions, but for this, conservatives had no appetite.

The conservative polemic against the so-called historical school, despite recognizing its counter-revolutionary merits, serves as solid proof of this interpretation. For a staunch conservative like Jarcke, Savigny's demand for "a complete habituation to viewing every concept and every proposition immediately from its historical standpoint"¹³⁸⁵ could mean nothing other than indifferentism and the justification of all things under the sun.¹³⁸⁶ To defend law, the mere demonstration of its historical development was not sufficient, as this also implied the inevitability of a future transformation of existing law; what was also necessary was an emphasis on the intrinsic connection between law and freedom, which, as legal freedom, was meant to guarantee the full dominion of a person over the sphere of their well-earned rights.¹³⁸⁷ Thus, from a conservative perspective, historicism as such was incapable of providing effective ideological protection for real conservative interests. Moreover, it seemed to weaken any energetic struggle for the defense of these very interests. For Jarcke, the natural doctrine of the state instilled the belief that nothing lay within human power, since everything happened according to the laws of natural development. Against this belief, Jarcke asserted the reality of human will and action, whose very existence required supplementing the natural doctrine of the state with a doctrine of law and freedom, as explained above.¹³⁸⁸ The teachings of the historical school also implied another dangerous idea: They made the life of nations appear as something primordial, developing solely from its own inner forces. While this perspective rendered revolutionary ruptures illegitimate, it also autonomized the earthly and the human. Thus, as E. L. v. Gerlach observed, the historical school, too, succumbed to "pantheism"; for it explained everything by referring to "the individuality and history of nations," while disregarding "the eternal sources and the universally human institutions, created by God and therefore always present."¹³⁸⁹

If, despite this polemic against historicism and the historical school, there were indeed serious conservative attempts at a conservative science of history, the reason for this does not lie in any supposed conservative deification of history, but rather in the effort of conservative ideologues to purge historical events of the

¹³⁸⁵ 706. *On the Profession*, 120. On the conservative sources of Savigny, see Rexus, *Studies*, 505, 518; regarding the previously mentioned unconscious guilt of conservative historicism for the groundwork of the Enlightenment, Savigny's own reference to Montesquieu should also be highlighted (*On the Profession*, 126). See Section 8 of this chapter.

¹³⁸⁶ 707. *Miscellaneous Writings*, III, 12f.

¹³⁸⁷ 708. *ibid.*, 169f.

¹³⁸⁸ 709. *ibid.*, II, 23ff.

¹³⁸⁹ 710. *Notes*, I, 102, see also 127.

"inessential" for polemical-apologetic purposes and thereby to schematize them. This led to the formation of a historical image that inevitably came very close to a static sociology—that is, to a doctrine of divinely ordained and therefore unchangeable institutions (cf. the recently quoted passage), alongside parallel use of anthropological assumptions. If the main problem of historical method consists in sifting through available material and then ordering it "meaningfully" based on an explicit or implicit distinction between the essential and the inessential, then the task of militant philosophy of history necessarily consisted in selecting materials accordingly, so that certain ideologically and normatively charged theses could be substantiated. It is therefore no coincidence that conservative philosophers of history insisted just as much¹³⁹⁰ as their Enlightenment predecessors on pushing aside historical details in favor of the grand trajectory of historical development,¹³⁹¹ and that historical-sociological typologies were first devised by thinkers who devoted all their efforts to serving a "cause." Bonald is, of course, the most prominent example of this intricate interweaving of motives and achievements. He speaks of "science sociale"¹³⁹² and seeks to construct a theory based on "propositions abstraites et générales"—propositions that, unlike the allegedly unhistorical principles of "métaphysiques politiques," would be fully applicable to historical reality.¹³⁹³ The "science des rapports d'ordre entre les êtres moraux" could, accordingly, be approached in the same way as the natural-scientific study of quantitative relationships between physical bodies. For, according to Bonald, there are constants in social life (*pouvoir, ministère, sujet*), which contain the general formal structure of all possible relations between social beings, even though they may appear in different forms and under different names depending on the nation and the era.¹³⁹⁴ The historical examination should therefore grasp the permanence of these relationships behind the variability of particular circumstances and events, and thus, in each concrete case, determine what is essential and what is accidental in human relations. However, since this determination is made with reference to a particular historical formation, it presupposes that institutions are immortal while humans are mortal, and therefore, institutions are not made by people, but rather people are made by institutions. Thus, the methodological approach of the conservative historian aligns with a fundamental worldview: Man does not shape his history at will, nor, in fact, is he capable of shaping it at all. In other words: The historical-philosophical perspective that culminates in static sociology and its

¹³⁹⁰ 711. Kondylis, *Enlightenment*, 427ff.

¹³⁹¹ 712. See, for example, Schlegel, *Philosophy of History*, XV = *Works*, IX, 336; see also 9f.

¹³⁹² 713. The expression is found in *Treatise on the Public Ministry*, V = *Works*, II, 127.

¹³⁹³ 714. *Theory of Power*, Preface = *Works*, III, 20f.

¹³⁹⁴ 715. *On Sovereignty*, etc., *Preliminary Discourse* = *Works*, I, 9. Bonald considers it possible "to write the history of a society without naming any of the kings who governed it", and he applies this method—which he attributes to Bossuet and Montesquieu—to the study of the epochs of monarchy, see *On the Manner of Writing History* (1807), *Works*, VII, 402, 415ff.

corresponding methodological ideal is inseparably linked to the belief in the non-malleability of history, as it is rooted in certain unchangeable institutions and social structures—just as the secular notion of historical progress must be based on the assumption that man is capable of shaping his own history. Seen in this way, it was logically consistent that Bonald opposed Condorcet's concept of progress primarily with the argument of history's immutability.¹³⁹⁵

This methodologically grounded yet ideologically expedient transformation of historiography into static sociology did not mean that conservative theorists, in their effort to secure the constancy and permanence of their preferred institutions in history, denied historical movement in the sense of the often unpredictable succession of (socially relevant) events. On the contrary. Already in their struggle against the Enlightenment-revolutionary notion of a universal peace, which was supposed to be brought about by the realization of equally universal ideals of reason, they had to point to historical realities that made such an ultimately static state of undisturbed happiness for all people impossible. Above all, the phenomenon of war was, for them, the practical refutation of these hopes and of the very idea of progress. In countless formulations and variations, they asserted that war was an essential part of the life of nature and nations and could not be abolished; that it tested strength and had a purifying effect; that it cultivated chivalric virtues and a sense of justice, etc.¹³⁹⁶ At the same time, however, they advocated the regulation of war precisely because of its inevitability, and they accused republics and democracies of being inherently warlike.¹³⁹⁷ This dual stance on war corresponded exactly to the dual interest of the nobility, which was fighting to maintain its dominance: By arguing for the inevitability of war, the nobility could reaffirm its traditional role as the warrior class, especially at a time of growing criticism of its "parasitic" nature.¹³⁹⁸ By rejecting total war, it could preserve its monopoly on warfare, avoiding universal conscription and the feared social consequences of mass democratic warfare.¹³⁹⁹ Similarly dual-sided was the

¹³⁹⁵ 716. *Observations on a Posthumous Work of Condorcet*, Works, IV, 165, 171, 179f.

¹³⁹⁶ 717. Burke, *Letters...*, I = Works, V, 318.

Maistre, *Considerations*, III = Works, especially Sp. 31.

See also *Evenings*, VII = II, 18f, 25f, 29.

Bonald, *Theory of Power*, I, 4,4 = Works, III, 236.

Haller, *Restoration*, III, 100ff.

Miller, *Elements*, IV = p. 52ff.

¹³⁹⁷ 718. Typical Bonald, *Primitive Legislation*, II, 14 = Works, II, 22f.

Theory of Power, I, 5,5 = Works, III, 289ff.

See also Burke, *ibid.*

¹³⁹⁸ 719. See, for example, Marwitz, I, 511; Rehberg, *Investigations*, I, 224ff, as well as *Nobility*, Chapters I-II.

¹³⁹⁹ 720. Typical Chateaubriand in his speech before the *Chamber of Peers* on March 2, 1818 = Works, XIV, 91.

conservative attitude toward power as a historical phenomenon. It was obvious to extend the historical-philosophical justification of war against universalism and pacifism into an apology for the law of power, i.e., for the right of the stronger.¹⁴⁰⁰ From a conservative perspective, as long as the nobility held power or at least maintained its full claim to it, the law of power was interpreted to mean that God or nature had ordained who should be powerful. However, the emergence and triumph of the Revolution made it clear that this interpretation could be reversed, i.e., that whoever held power could also dictate what “nature” was supposed to decree. Thus, the historical-philosophical justification of the right of the stronger became ineffective, even dangerous. The conservative demand for a moral foundation of power, raised in opposition to the unvarnished idea of power, offered considerable ideological advantages. Since right, by definition, was on the conservative side, the victorious power of the enemy could no longer invoke nature. As long as power could only be “true” power when tied to right, then merely possessing right could itself be power—and could grant power.

7. Conservative Critique of Capitalism and Culture

a) Politics and Economy. The Concept of Property and the Susceptibility of Capitalism to Crises

A key conservative critique of the modern secular state was that it set universal welfare as its goal and legitimized itself through *eudaimonistic* doctrines.¹⁴⁰¹ As a result, the capitalist economic system (referred to as *monetary economy* or *industrialism*), whose legitimizing ideology was likewise secular and *materialist*—centered around notions such as *happiness* or *needs* and the anthropological construct of *homo oeconomicus*—was seen as inherently related to the modern state, as its necessary counterpart, and was thus rejected on the same grounds. Moreover, there was no shortage of evidence for a deliberate and systematic cooperation between state and capitalism. Conservatives observed the tendency of governments, in their search for revenue, to promote directly taxable economic sectors, as well as their desire “that all labor in the state be directed towards

See also Schlegel, *Cologne Lectures* (1804/5), XI = *Works*, XII, 150.

On the debate about conscription in France during the Restoration period, see Oechslin, *Movement*, 1806.

¹⁴⁰⁰ 721. Above all, Haller, *Restoration*, I, 352, 357, 359; a particularly characteristic formulation is found in Leo, *Letter*, 19.

¹⁴⁰¹ 723. See section 4a in this chapter.

the pursuit of money.¹⁴⁰² They also lamented that, through the expansion of bureaucracies and the increase of state expenditures, governments had become slaves of the money oligarchs and usurers.¹⁴⁰³ They feared “the financial power that encircles and penetrates all states, and by having firm footing and deep roots in several at once, becomes essentially independent of state authority.”¹⁴⁰⁴ Not least, they were disgusted by what they saw as idolatry of industry—“trade exhibitions treated as the highest concern, flattery from kings down to their lowest servants, medals and honors awarded simply for someone having pursued their own advantage by any means necessary.”¹⁴⁰⁵

The collaboration between state and capitalism concretely meant that both jointly and complementarily undermined the *societas civilis*. Capitalism could only develop by embedding itself in the divisions created by the consolidation of the modern state: its ideologically and practically vital autonomy and self-legislation in economic matters could only flourish on the foundation of the separation between the (political) state and (non-political) society. Likewise, the anthropology of *homo oeconomicus*, which encouraged capitalist behavior—intertwined with the secular pursuit of happiness and implicitly set against the Christian subordination of all human endeavors to the goal of salvation—could only emerge as an intellectual consequence of the separation between legality and morality, private and public life. Whereas in the ideology of *societas civilis*, the concept of the highest ethical goal ensured the interconnectedness and mutual dependence of all spheres of the social order, the aforementioned separations now enabled the autonomy of the economic sphere. As a result, capitalism, in alliance with the modern state, positioned itself as the purely political force against *societas civilis*, which was understood as the ethically political domain. Thus, when conservatives defend the unity of economy and politics under the banner of ethics, they aim to subject the independent development of capitalist economics and the bourgeoisie to institutions that traditionally belonged to the aristocratic-conservative domain. At the beginning of conservative critiques of capitalism, therefore, stands the rejection of the idea that the state has no ethical function and is merely responsible for external necessities.¹⁴⁰⁶ Beyond its anthropological implications—addressed in the next section—this perspective promotes the autonomy of the economic sphere by asserting that, after its complete withdrawal from the realm of ethics, the state recognizes only its own self-imposed positive law as law. This law no longer governs the relationships between individuals as ethical persons but instead regulates contracts between

¹⁴⁰² 724. Müller, *Abhandlungen*, 143.

¹⁴⁰³ 725. Marwitz, II, 2, 273, 325 ff.

¹⁴⁰⁴ 726. Schlegel, *Fragmente* (1826) = *Werke*, XXII, 239.

¹⁴⁰⁵ 727. Radowitz, *Fragmente*, I (1842) = *Ausgewählte Schriften*, II, 259.

¹⁴⁰⁶ 728. Müller, *Elemente*, II = p. 24.

economic agents who think primarily in economic terms. In contrast, the good state or *societas civilis* upholds divine law, which rests on the unity of ethics and politics and thus cannot recognize the autonomy, let alone the primacy, of the economic sphere. Positive law, designed according to the needs and interests of economic actors, remains subordinate to the higher law in the same way that the economy is subordinated to ethically guided politics. Correspondingly, the correct perspective on state life should not be the positivist-legal or the national-economic one but must be approached from a perspective that is partly historical and partly legal (in the sense of the aforementioned higher law).¹⁴⁰⁷ Since this *higher* law legitimized the functioning of *societas civilis* and, consequently, the ruling position of the aristocracy, it is easy to understand what conservatives concretely meant and intended when they argued that the decisive criterion “*is not economic but legal*” or that “*the salvation of the state rests on moral, not economic principles*.”¹⁴⁰⁸

The application of the social-political demand for the unity of (ethically oriented) politics and economics to the field of scientific theory led some conservatives to remarkable methodological insights. Most notably, A. Müller opposed any isolated consideration of the political and the economic, tracing such approaches back to the dissolution of *societas civilis* and the resulting autonomization of the social spheres. If politics as a science no longer takes the true state as its subject, he argued, then political economy, too, can concern itself with nothing other than “pure yield and lifeless goods, the pursuit of welfare and wealth.”¹⁴⁰⁹ Thus, in A. Smith’s work, only the products of economic agents are considered, and even activities that have nothing inherently to do with economic activity are treated as economic products in their character as commodities. However, according to Müller, this does not contribute to the conceptual precision of political economy but rather to its substantive impoverishment. Given the objectively interwoven nature of all social spheres, the modern one-sided perspective of political economy cannot even grasp the economic product in its essence; production is “the great, deeply intricate and yet so simple movement of minds and hands, within which national wealth is in an eternal process of becoming. Whoever wishes to observe this cannot exclude the mightily effective inner or spiritual forces of man”—which means that one also cannot exclude the state as a whole, with which the forces of naturally social human beings have been connected from the very beginning.¹⁴¹⁰ Economic and legal or constitutional considerations belong together, particularly in view of the fact that “the existing state constitution itself”—that is, the sum of all

¹⁴⁰⁷ 729. *ibid.*, IV and VI = pp. 4746, 80 ff.

¹⁴⁰⁸ 730. Marwitz, II, 1, 334; I, 2, 57.

¹⁴⁰⁹ 731. *Von der Notwendigkeit*, 178.

¹⁴¹⁰ 732. *Elemente*, II = p. 26f

interpersonal relationships within a state—"is the true national capital."¹⁴¹¹ Behind economic magnitudes stand the totality of social ones, which determine both the scope and the rules of play for the former. This is why Coleridge reproaches political economists who assume the autonomy of the economy: "what they truly state, they do not truly understand in its ultimate grounds and causes"; over and above "political economy" stands "political philosophy."¹⁴¹² This economic-theoretical position, of course, has an ideological background and a socio-political thrust. For the claim that the economic must not be judged by purely economic criteria but must be considered from a higher social and legal standpoint concretely means that the decisive factor should not be the interests of those who uphold the autonomy of the economic sphere, but rather the concerns of those who, in the name of a commonwealth bound by traditional law, lay claim to decision-making. The intervention of the government with the goal—so it was said—of preventing the enrichment of the bourgeoisie at the expense of other classes is thus understood and advocated as a social-political concretization of the rejection of economic autonomy and as the realization of its subordination to higher legal principles.¹⁴¹³ Many conservatives took a particular interest in such interventions, for despite all their polemics against the autonomy of the economy, they were well aware of its growing significance in relation to politics. Under the impact of the immense upheavals of the 19th century, a conservative, just like a Marxist, could conclude that "domination in the sphere of political economy and social affairs irresistibly brings with it domination in the political sphere."¹⁴¹⁴

The two previously described views on the relationship between politics and economy correspond to two distinct concepts of property. While, under the principle of unity between (ethically oriented) politics and economy, property is understood as the embodiment of stable interpersonal (hierarchical) relationships, in the context where the autonomous economic sphere stands opposed to a political sphere embodied by the secular state, it appears merely as an external and arbitrarily alterable relationship between a legal subject and an object. At least, this is what the conservative distinction between "living" and "dead" property seeks to suggest. In the former, a historically developed relationship between people and things is condensed and perpetuated, so that the owner remains aware of their responsibility towards both ancestors and descendants. Here, objects are not merely owned as lifeless things; rather, the relationships between people that

¹⁴¹¹ 733. *Abhandlungen*, 34; cf. 65, 80, 157.

¹⁴¹² 734. *Talk* (March 17, 1833) = p. 198 ff.

¹⁴¹³ 735. See also Baader, *Schriften*, 11 f., 17 ff

¹⁴¹⁴ 736. Wagener, *Erlebtes*, II, 65. The same insight into the significance of the economic sphere underlies, for example, Radowitz's attempt at a typology of political constitutions based on their respective economic foundation (Agricultural State = estate-based monarchy, Industrial State = representative, Commercial State = democratic), *Fragmente*, I = *Ausgewählte Schriften*, II, 288f.

accompany ownership—such as those manifest in fiefdoms and service—take precedence. Economic and ethical-social considerations are inseparable. In contrast to this form of property, which typically appears as permanent family estates, stands the bourgeois concept, where objects are mere appendages of isolated individuals and can be treated without ethical or social consideration—bought and sold at will.¹⁴¹⁵ However, the conservative insistence on the *interpersonal, living* aspect of property does not stem from sentimental attachment but rather from the notion of unity traditionally formed by landed property and the people under the patriarchal authority of the *oikos* leader. As Méser already observed, the “old genuine” concept of property also included the rights of the landed lord, and the separation of these two aspects—which defines the modern bourgeois notion of property—has had “a far greater impact on the state and on a pure and sound theory of law than is commonly believed.”¹⁴¹⁶ According to the legal conception of *societas civilis*, property, in the “old genuine” sense, forms a “moral-religious principle” because its human aspects—that is, the patriarchal interpersonal relationships it entails—help eliminate the selfishness inherent to all property as a product of the Fall.¹⁴¹⁷ Drawing from the traditional, ethically oriented concept of politics, it can thus be asserted: “Property is itself a political concept, an office established by God to uphold His law and the dominion of His law within the state.”¹⁴¹⁸ In concrete terms, this means that property is inseparably linked to “patronage, policing, and jurisdiction”—that is, to rule. However, in the language of conservatives, this rule is framed as “duty”—the obligation of the property owner, as God’s steward, to govern dependents for their rightful well-being with strict and just love. The demand for binding property to duties thus amounts to a demand for the preservation of patrimonial rights and the rejection of impersonal bourgeois property.¹⁴¹⁹

This opposition between “living” and “dead” property, in its entanglement with the two fundamentally different conceptions of the meaning and relationship between politics and economy, is now illustrated through the contrast between landed and movable property. From a conservative perspective, this is not merely an economic distinction but a political-social and even a worldview-related one. The ideological dimension is emphasized all the more passionately the more critical material concerns are at stake. Landed property and movable property embody two entirely opposing social realities and, beyond that, two irreconcilable attitudes and ways of life. Landed property embodies the conservative principle of permanence, as it

¹⁴¹⁵ 737. Müller, *Elemente*, VIII and XIV = pp. 100 ff, 165 ff.

¹⁴¹⁶ 738. *Patriotische Phantasien*, IV, 43 = *Werke*, VII, 140

¹⁴¹⁷ 739. Jarcke, *Vermischte Schriften*, III, 181 ff, 193

¹⁴¹⁸ 740. E. L. v. Gerlach, *Aufzeichnungen*, I, 541.

¹⁴¹⁹ 741. *ibid.*: “Against property without obligations, communism is right.” See also Baader, *Schriften*, 303f.; Coleridge, *Talk* (March 31, 1833), 201

remains in the hands of a family that persists across generations, maintaining continuity and obligations imposed by tradition. Their actions are guided not by ephemeral material interests but by a higher responsibility toward God and humanity. Landed property thus inherently signifies both ethical and material rootedness, rejecting unrestrained and opportunistic profit-seeking. In contrast, movable property—at the free disposal of its individual owner and capable of being sold at any time—dissolves all stable, supra-individual points of reference and orientation, levels traditions, and subjugates all ethical considerations to the vulgar-material. In the feverish social atmosphere created by the mobility of property and the growing thirst for new, rootless wealth, no time or inclination remains for ethical reflection, for leisure and contemplation—everything is driven by the pursuit of material gain.¹⁴²⁰ This justification of the structural opposition between landed and movable property was not developed purely speculatively but emerged in the context of intense socio-political struggles. In Prussia, for example, it was directed against the influential views of the German Smithians around Kraus and Thaer during the reform period, who argued that industry and agriculture followed the same economic laws and that the application of laissez-faire principles to the agricultural sector was not only possible but necessary.¹⁴²¹ Müller, who positioned himself as the mouthpiece of the reaction against the Smithians and reformers, defended the uniqueness of agriculture, arguing that the new economic principles associated with developed labor division and finance could not be applied to it.¹⁴²² The “*monetary economy*” took hold in agriculture not only due to the unrestricted alienability and mobility of landed property—whose divisibility was further encouraged by its conversion into monetary value—but also through the transformation of all unpaid services and natural dues into “*monetary compensation*.”¹⁴²³ The entanglement of the nobility in the murky dealings of monetary economy, Müller warned, would have catastrophic ethical and material consequences. He thus depicted the “*great alternative*” for agriculture as follows: “*Either feudalism or debt. It cannot escape dependency; it only has the choice between that of the feudal lord and that of the creditor. Either a noble personal obligation, as Christian laws have taught us, or a Roman obligatio—that is, slavery.*”¹⁴²⁴

¹⁴²⁰ 742. On this contrast between land ownership and movable property in Rehberg, see the good summary by Vogel, *Kritik*, 163f. Also typical: Coleridge, *A Lay Sermon*, *Collected Works*, VI, 214, as well as Müller, *Abhandlungen*, 163, 184, cf. *Theorie des Geldes*, 50.

¹⁴²¹ 743. See Lenz, *Agrarlehre*, Part I, as well as pp. 82 ff, 98 ff; Steig, *Kleists Berliner Kämpfe*, 55 f.; Steffens, *Hardenberg*, 93

¹⁴²² 744. *Abhandlungen*, 42. The emphasis on the essential difference between land and city, land ownership and trade, served concrete political purposes, including the attempt to demonstrate that tax equality, when applied to these different conditions and cases, is not equality but rather “the greatest inequality,” so Marwitz, II, 2, 41

¹⁴²³ 745. Müller, *Abhandlungen*, 116, 122, 139; Marwitz, II, 2, esp. 303

¹⁴²⁴ 746. *Abhandlungen*, 184

The conservatives had long recognized the revolutionary consequences of the increasing dominance of “monetary wealth” over “landed property.”¹⁴²⁵ They saw a fundamental goal of French revolutionary legislation and the *Code Napoléon* in “promoting the circulation of property,” from which they concluded that “the unlimited mobility of all moral relations is only conducive to despotism.”¹⁴²⁶ The dissolution of stable property, which accompanied the breakdown of corporations, ultimately led to the abolition of both intellectual and civic freedom. Ironically, this abolition was endorsed by the liberal bourgeoisie, which loudly opposed state interference in the economy—except when it facilitated the destruction of immobile property in favor of mobile wealth.¹⁴²⁷ The abstract bourgeois conception of property—“hatred of any humanization of rights over things, of any subordination and connection between two persons”—inevitably led to the communist abstraction of universally owned, and thus maximally fragmented, property.¹⁴²⁸ Against this despotism of atomized, alienated property, the conservatives set forth the *organic state of organic property*. If the organic state is understood as the unity of ethically oriented politics and economy, and if organic property is seen as the crystallization of specific (patriarchal) human relationships around particular things, then property must at least be considered *state property* insofar as it constitutes a service to the higher principles embodied by the state. State property, in other words, is organic property precisely because, as a duty, it cannot be arbitrarily disposed of by any random individual, as is the case with bourgeois property. However, this binding to supra-personal institutions is not *state slavery*, for it does not refer to the modern bureaucratic state, which indeed can impose such slavery, but rather to the *societas civilis*, which, through its ideological homogeneity based on the concept of law, ensures the uniformity of its members’ conduct. Thus, when Möser asserts that “the earth belongs to the state and its owner may not dispose of it arbitrarily,” since he possesses only “usufruct,” he is not advocating socialism but rather affirming the duty of the *oikos-leader* to act not as a free subject in the bourgeois sense, but in a manner appropriate to the continued existence of the *societas civilis*. Because of this *state-character* of property, for instance, a father may not arbitrarily divide family property through testamentary provisions—just as, conversely, the ruler’s measures to preserve the *oikos* or the *estate* are not illegitimate violations of *suum cuique* but actions in accordance with the law sustaining the *societas civilis*.¹⁴²⁹ Friedrich Schlegel thus correctly observed that the principle of the state’s *dominium*

¹⁴²⁵ 747. See, for example, Möser, *Werke*, IX, 380.

¹⁴²⁶ 748. Rehberg, *Code*, 242

¹⁴²⁷ 749. Baader, *Schriften*, 474f, 449, note.

¹⁴²⁸ 750. L. v. Gerlach, *Denkwürdigkeiten*, II, 298.

¹⁴²⁹ 751. *Werke*, IX, 352, 358f, 356

eminens over external things was an integral part of the feudal constitution.¹⁴³⁰

From a conservative perspective, the essential characteristics of capitalism appear as an inversion of their already outlined views on the unity of politics and economy, as well as property. The capitalist system, they argue, functions based on two fundamental premises. First, capitalism presupposes the *autonomy of the economic sphere*, which in turn necessitates a radical transformation of the political sphere—one in which politics severs its ties to ethics and law (as understood within the *societas civilis*) and instead becomes the exclusive domain of the secular state, which stands apart from society. Second, all aspects of economic life are subordinated to the same economic laws, leading to the triumph of *monetary wealth* over traditional property and the erosion of its distinctive character. In place of *corporatism* and *patriarchal structures* emerges the freedom of the economic individual, along with the *competition* of all economic actors against one another. This *freedom and competition* immediately become targets of conservative critique, as they believe these forces destroy stable and ethically legitimate hierarchies, reducing social life to an *arena where the law of the stronger and craftier prevails*. The primary victims of this transformation are the lower social classes, for whom *equality and freedom* mean nothing more than the loss of all protection they once enjoyed within the embrace of their traditional corporations. Now, as isolated individuals, they are exposed to the pressures of ruthless economic forces.¹⁴³¹ However, those who most benefit from *freedom* are precisely those who *preach* it—the *bourgeoisie*, the “*class of industrialists*,” which, “*by its very nature, thinks only of acquiring and consuming*” and concentrates the nation’s wealth in its own hands. The advocates of *laissez-faire* are accused of *sacrificing the poor* to this class.¹⁴³² The autonomy of the economic sphere and the rule of blind economic laws in a society dominated by the bourgeoisie thus create a “*modern feudalism*” that oppresses the poor *even more* than the old order. This new form of exploitation, conservatives argue, *enslaves women and children*, subjects them to *forced labor*, and *ruins their health*—to the point where, they claim, “*even the fate of a Negro slave is enviable in comparison*.”¹⁴³³ From the late 18th century onward, conservative writers have depicted, in countless variations and ever more sentimental tones, the miserable lives of the *proletarian masses*, suddenly uprooted from their traditional peasant virtues, crowding into the cities, multiplying excessively, and succumbing to every

¹⁴³⁰ 752. *Kölner Vorlesungen*, X = *Werke*, XIII, 127. Thinking from the perspective of the feudal constitution, Müller also argued that the state had “no more immediate share in any kind of goods than in land ownership” (*Theorie des Geldes*, 48f). Coleridge likewise spoke of “the idea of trust inherent in landed property” (*Church and State*, *Collected Works*, X, 44f).

¹⁴³¹ 753. Baader, *Schriften*, 325, 328, 330.

¹⁴³² 754. Rehberg, *Untersuchungen*, 28f; cf. Vogel, *Kritik*, 54 ff, 190 ff

¹⁴³³ 755. See the article “Der moderne Feudalismus,” *Berliner Politische Wochenschrift* (1837, No. 23), quoted in Goetting, *Idee*, 22.

imaginable vice. They are rendered utterly dependent on *newly invented machines*, the *whims of consumer tastes*, and *shifts in production*, which can at any moment cast them out into the streets.¹⁴³⁴

This capitalist system is not only unjust and inhumane but also vulnerable precisely in the area it considers its greatest strength: the economic sphere. Conservatives argue that capitalism, by displacing agriculture in favor of industry, does not generate real wealth but, despite all its apparent economic activity, only produces poverty and impoverishment. Particularly in the early stages of the industrial revolution, conservatives struggled to grasp the qualitative novelty of the emerging economic order and, consequently, the radical transformation of the very concept of wealth. For instance, Bonald fails to see why a commercial nation like England, which depends so heavily on imports, should be considered wealthier than an autarkic agrarian nation that keeps its institutions intact and, thanks to its agricultural surpluses, can purchase the industrial goods it needs if necessary. An autarkic nation, he believes, is just as wealthy as any other, especially since true wealth consists in *la force morale*, which is embodied in *moeurs et lois*. On the contrary, he sees in *toute la vanité de ces systèmes*—which rely on commerce and industry—the rapid growth of the population to be fed, the rising costs of daily necessities, and the falling prices of luxury goods that benefit only a few, not to mention the sharpening of social tensions, which also contribute to the impoverishment and weakening of a nation.¹⁴³⁵ Even more, Bonald finds it incomprehensible “*why precisely those nations in which poverty increases by the day should be considered rich*”—nowhere, he observes, is poverty as widespread as in countries *opulents par le commerce*, foremost among them contemporary England.¹⁴³⁶ What is particularly interesting, given the later development of socialist critiques of

¹⁴³⁴ 756. Such a presentation is already found in Bonald, *Théorie du Pouvoir*, II, 2 (4), 1 = *Oeuvres*, IV, 405 ff. Typical are the statements of Villeneuve and the many passages from earlier authors he collected, see *Economie politique*, I, chap. XII.

¹⁴³⁵ 757. *Pensées*, *Oeuvres*, VI, 182-186; *De la richesse des Nations* (1810) = *Oeuvres*, VII, 584 ff, esp. 588.

Cf. Coleridge's defense of the principle of economic autarky, *Talk*, 282f, 288 (May 3 and June 20, 1834).

As conservatives, within their critique of capitalism, condemned luxury, they revived social-critical motives from earlier centuries (see also Chap. II, Section 4f) and blended old complaints about the effects of luxury on the aristocracy (see, for example, Bonald, *Pensées*, *Oeuvres*, VI, 53, 11) with contemporary considerations on the parasitic nature of capitalist economy, which depends on the constant creation of artificial needs (see next section).

In a long chapter of his major work devoted to the question of luxury, Villeneuve points out the contradiction in the stance of bourgeois apologists, who denounce aristocratic luxury while simultaneously approving the general increase and refinement of needs for the sake of trade and industry (*Economie politique*, I, chap. XVII, esp. 466).

¹⁴³⁶ 758. *De la richesse...*, *Oeuvres*, VII, 595.

capitalism, is that conservatives did not merely attribute mass poverty in wealthy capitalist countries to factors like population growth. They also, albeit only tentatively, formulated a theory of exploitation. Baader, for instance, reports on meetings et associations of factory owners in England, "*which all ended with the establishment of a maximum wage for workers and a minimum price for goods, and thus were nothing but conspiracies against the proletarians, whose wages were kept constantly below the natural value and price of their commodity (namely, their labor).*"¹⁴³⁷ This rudimentary version of the *Mehrwertstheorie* (theory of surplus value) appears in an even simpler form in Villeneuve, who argues that employers *withhold part of the wages that should rightfully be paid to workers in order to increase their own profits*. From this, he concludes that capitalism is inherently crisis-prone, developing a crisis theory that anticipates later socialist diagnoses. According to him, the *fundamental economic contradiction of capitalism* is that, on the one hand, it must keep wages low to produce cheap goods and secure high profits, while on the other hand, it must *stimulate mass consumption* to ensure that these cheap goods are actually sold. However, "*il est impossible de concilier des principes aussi contradictoires.*"¹⁴³⁸

The resulting constant cyclical *extraction* and *contraction* of capitalist production further exacerbates the material misery of the working masses.¹⁴³⁹ However, the crises generated by the capitalist system are not merely economic in nature. If capitalism insists on the autonomy of the economy and approves of the separation between economics and politics, it is nevertheless unable to escape the political consequences of economic development, nor can it do without the support of modern politics and the secular state. The external political consequence of capitalism is the expansion and intensification of wars. Bonald ridicules the liberal theory of trade as "*lien universel des peuples*" and observes that trade disputes cause the most severe and bloody wars.¹⁴⁴⁰ Internally, the capitalist system is constantly threatened by the danger of revolution, as it inevitably creates and sustains the very revolutionary army of the proletariat that may ultimately overthrow it. If the feudal system populated the land with deeply rooted and naturally living families, "*le régime fiscal, commercial, philosophique*" instead fills the cities with restless and uprooted individuals: "*l'un, en un mot, donne des citoyens à l'État, l'autre élève des prolétaires pour les révolutions.*"¹⁴⁴¹ Mallet du Pan already speculated on the consequences of an alliance between "*légions d'hommes sans secours, tâcherons et manœuvres*" and an intellectual vanguard that propagates revolutionary theory: "*Imagine now that the dictionary and the customs of the Club of the Cordeliers have become*

¹⁴³⁷ 759. *Schriften*, 329.

¹⁴³⁸ 760. *Economie politique*, I, 283f.

¹⁴³⁹ 761. Coleridge, *A Lay Sermon*, *Collected Works*, VI, 157, 202 ff

¹⁴⁴⁰ 762. *De la richesse...*, *Oeuvres*, VII, 591; cf. *Pensées*, *Oeuvres*, VI, 10.

¹⁴⁴¹ 763. Bonald, *Traité du Ministère Public*, XII = *Oeuvres*, II, 189.

the catechism of this vast multitude of helots, and that they are incited by demagogues to fight in the name of equality.¹⁴⁴²” Later conservatives generally considered such an alliance highly probable, convinced as they were that “*The revolution only has power where nearly all organic structure has dissolved—that is, among arrogant, hungry literati and atomized factory workers.*”¹⁴⁴³ What incites the workers to revolt and pushes them into the arms of the intellectual vanguard, conservatives argue, is the atomization of the community, resulting in a war of all against all, where naked self-interest governs human behavior.¹⁴⁴⁴ Added to this is the despair of the proletarian, who is formally independent and equal, but in reality at the mercy of the stronger and stands without any legal claim to protection or assistance—a situation that he perceives *with heightened intensity* precisely because of his formal equality with the rich.¹⁴⁴⁵ In such a diagnosis, there is no shortage of voices predicting an extreme concentration of wealth, a corresponding intensification of the divide between the owning and the dispossessed classes, and ultimately a series of catastrophes. However, this future outlook appears less grim due to the expectation that the revolution would not bring victory to the proletariat and socialism, but rather the downfall of the entire monetary economy system and a return to a natural economy and feudal conditions, just as had happened during the Roman imperial era.¹⁴⁴⁶

b. The Anthropological and Cultural Aspect

Rudimentary and stereotypical as they may be, the core motifs of conservative cultural critique can be summarized briefly—though it must be said that their social-political and intellectual-historical impact has been far greater than such a short summary might suggest at first glance. Conservative cultural criticism does not amount to a Rousseauian rejection of culture as such; rather, its target is the culture of capitalism—or more precisely, the effects of capitalism on the culture of the *societas civilis*. It therefore takes aim precisely where the essential characteristics of capitalism become perceptibly dangerous to the conservative moral code and its corresponding conception of humanity. One of the fundamental characteristics of capitalism, in this view, is the autonomization of the economy from ethics and politics—an autonomization that finds its most tangible, everyday expression in the omnipresence and omnipotence of money, which has been stripped of all ethical ties and, in its moral neutrality, produces immoral effects. In the world of an autonomous capitalist economy—which is not isolated but rather penetrates

¹⁴⁴² 764. *Betrachtungen*, 47-49.

¹⁴⁴³ 765. L. v. Gerlach, *Denkwürdigkeiten*, I, 639.

¹⁴⁴⁴ 766. Radowitz, *Gespräche*, XIV = *Ausgewählte Schriften*, I, 389.

¹⁴⁴⁵ 767. Radowitz, *Fragmente*, I = *Ausgewählte Schriften*, II, 361 f

¹⁴⁴⁶ 768. *Staatslexikon*, V, 68f. (Article *Capital*).

everything—money ceases to be a mere servant and becomes a master; it turns into a commodity itself and, beyond that, “the sole Spinozist world-substance, and thus also the invisible world-god.”¹⁴⁴⁷ The qualitative transformation of all areas of social life under the impact of *Geldwirtschaft* appears so immense that conservatives sometimes divide history into two periods: a happy one before, and a dark one after, the ascendancy of monetary economics. “Money! Dreadful invention! You are the true evil in the world!” exclaims Méser, longing for the time of a natural economy when customs and human relations were simpler and more transparent. The transformation of morals, however, was primarily driven by the fatal shift of power in favor of the bourgeoisie and at the expense of the aristocracy: “Before you came, the landowner alone was a member of the nation... No one knew of the money-rich, those traitors to human freedom... Before you came, prudence and strength—those true virtues of beasts and men—determined the fate of nations. The merchants did not rule over the bravest with their money.”¹⁴⁴⁸ Similarly, Radowitz sees “the great social transformation of modern time” in the fact that, after the collapse of everything that could not be bought with mere money—birthright, lineage, guilds, land—“individual wealth alone rules, and this, to an overwhelming degree, is represented by money.” Despite all differences between a Fugger and a Rothschild, this development, he argues, had already begun in the 16th century.¹⁴⁴⁹

The great turning point thus transformed money, which “until then had been a necessary evil,” into “an idol to which everyone pays homage.” By undermining the economic and social position of the aristocracy, money paved the way for leveling tendencies and mobilized society by encouraging competition and awakening in every individual the hope of becoming richer than their father or neighbor. Amoralistic and utilitarian perspectives gained the upper hand, and at the same time, traditional interpersonal bonds dissolved, resulting in a growing isolation of individuals from one another. These psychological and moral phenomena, however, were connected to a specific effect of money on labor and production. Money separates labor from acquisition; wealth becomes completely detached from its productive base, and money and labor no longer correspond to one another, as the speculator can acquire wealth without having to work for it.¹⁴⁵⁰ *Parasitism and amorism* thus go hand in hand in a “money economy.” Yet, under the reign of money, interpersonal relationships do not only suffer visibly and directly but also, and perhaps even more, indirectly, as they become practically conditioned solely by this impersonal medium, which alone is now capable of creating bonds and dependencies: “All bourgeois transactions are to be carried out through the mediation

¹⁴⁴⁷ 769. Baader, *Schriften*, 412.

¹⁴⁴⁸ 770. *Patriotische Phantasien*, I, 28 = *Werke*, IV, 144

¹⁴⁴⁹ 771. *Fragmente*, I = *Ausgewählte Schriften*, II, 286

¹⁴⁵⁰ 772. The analysis of this passage refers to Marwitz, II, 2, 275 f.; II, 2, 303 ff, 313, 317; I, 594 f.

of money; the individual person shall no longer depend directly on another but only indirectly, while being directly dependent on money. Therefore, the natural dependence of people on one another will not cease to exist, and thus, what our century calls freedom consists merely in a doubling of chains.¹⁴⁵¹ Clearly, Müller is not lamenting the loss of human warmth or love in general, but rather the dissolution of patriarchal relationships, which in his view embodied true Christian love. Yet, these arguments can also be translated into a more modern language, as was later done. Equally forward-looking was the attempt to demystify the seemingly abstract and impersonal power of money by pointing out that, in reality, it was driven by concrete human forces and social relationships, which together constituted national productive capacity. Production and exchange, as they unfolded among specific individuals, generated what appeared from the outside—against the backdrop of a particular economic system—as the intrinsic power of money itself. Against bourgeois political economy, which, as the theory of the capitalist system, assumes the autonomy of the economic sphere and refuses to acknowledge the human-social substance behind economic quantities, Müller advocated for the creation of a form of money that would be nothing more than “a faithful reflection of our productive activity and its success,” “a kind of living money.” Moreover, he believed that the autonomous movement of money—having become both a commodity and a master—could not continue indefinitely within the capitalist system. Beyond a certain limit, the continuous expansion of monetary instruments and symbols would inevitably lead to a catastrophic collapse of the entire monetary system.¹⁴⁵²

The capitalist system is ultimately just as much in contradiction with the true nature of money as degenerate money is with human nature. However, in this system, human nature is also threatened in other, even more direct ways. Conservative critics of capitalism do not shy away from strong language when they denounce, in tones of deep moral outrage, the physical and psychological crippling of the slaves of the industrial system: “Industry devours far more victims than war, but war does not first torment its victims with nameless agonies, with intellectual and physical degradation...”¹⁴⁵³ Bonald writes: “Les fabriques altèrent les formes du corps et dépravent les âmes. La famille y gagne de l’argent, des infirmités et des vices; et l’État une population qui vit dans les cabarets et meurt dans les hôpitaux.”¹⁴⁵⁴ The psychological consequences of uprooting peasants from their familiar, morally healthier environment and their relocation to cities are also described—where, without firm

¹⁴⁵¹ 773. Müller, *Abhandlungen*, 114.

¹⁴⁵² 774. *Elemente*, XVIII-XXI = pp. 218, 221, 223, 251 f.; *Abhandlungen*, 104f, 45.

Here, reference should be made to conservative voices that already, at the time of the French National Assembly, raised strong objections to *papier-monnaie*, etc., see for example Aulard, *Orateurs*, 247 ff.

¹⁴⁵³ 775. *Kreuzzeitung*, 1851, No. 238, quoted in Herberger, *Stellung*, 26.

¹⁴⁵⁴ 776. *Pensées*, *Oeuvres*, VI, 59.

family ties, they drift aimlessly and fall into alcoholism or crime.¹⁴⁵⁵ Under these conditions, the industrial worker ceases to be a person, especially since he does not even have full control over his own body: *"Even the serf of the Middle Ages was in a better position; the one who owned his own body also had the duty and the interest to care for it. But now, for the proletarian, the master takes the essential part of the body—the strength—for himself and, in bitter irony, leaves him the rest at his disposal."*¹⁴⁵⁶

These are not mere deficiencies of the industrial system that could be corrected through goodwill and better technical regulations. The fragmentation of human personality is inherent in the very functioning of the system itself—namely, in the division of labor, whose advances have made modern industry possible in the first place. It is no coincidence, then, that *"the ideal of industrial systems"* consists in the notion that *"the individual worker is nothing more than a wheel or cog, or a single tooth of a wheel, in the great mechanism."*¹⁴⁵⁷ Due to its fundamental importance for the development of industry and the formation of the new society as a whole, the (advanced) division of labor became an early target of conservative polemics. Since it could not be rejected on technical grounds, critics instead advanced general anthropological and ethical arguments. Möser, for instance, already claimed that anyone possessing a single skill to a high degree could not have a completely healthy soul, since *"a multitude of natural abilities is stunted in him."*¹⁴⁵⁸ Rehberg expressed similar thoughts at an early stage—ideas that would become conservative stereotypes only a few decades later. He argued that through *"an excessive degree"* of labor division, people *"lose more in the internal cultivation of their noblest part than they gain in dexterity for external purposes."* One who develops a single skill at the expense of all others *"becomes useless outside his narrow sphere, loses sight of life's broader relations, and thereby detaches himself from his fellow human beings."* This, in turn, *"paves the way for despotism, which finds it easiest to subjugate isolated individuals."*¹⁴⁵⁹ A. Müller draws an interesting parallel between the mechanical nature of the modern secular state—based solely on the principle of legality and general legislation—and the mechanization of labor through increasing specialization.¹⁴⁶⁰ These key themes continued to be repeated and varied well into the late 19th century, with critiques of advanced labor division in large-scale industry often serving to defend the interests of the threatened artisan class. Thus, in Wagener's *Staatslexikon*, we read that modern labor division not only *"hinders every desirable development of human faculties and abilities, so that work ceases to be a personal good for the worker,"* but also *"damages the quality of the products*

¹⁴⁵⁵ 777. See for example Müller, *Abhandlungen*, 95f

¹⁴⁵⁶ 778. Radowitz, *Fragmente*, I (1826) = *Ausgewählte Schriften*, II, 160.

¹⁴⁵⁷ 779. Müller, *Theorie des Geldes*, 119.

¹⁴⁵⁸ 780. *Patriotische Phantasien*, III, 34 = *Werke*, VI, 124.

¹⁴⁵⁹ 781. *Untersuchungen*, I, 216.

¹⁴⁶⁰ 782. *Elemente*, XVI = p. 193.

*manufactured.*¹⁴⁶¹”

Against the dehumanization and degradation suffered by the slaves of capitalist industrialism, conservatives counter with Christian-humanist principles: “Persons are not Things... Men ought to be weighed, not counted. Their worth ought to be the final estimate of their value.”¹⁴⁶² Naturally, such statements do not in any way imply a desire to advance the emancipation of the individual in the sense of bourgeois individualism. Just like the sharp denunciations of mechanized labor, these Christian-humanist affirmations serve more as an occasion to recall the good old days of patriarchal relations in the countryside. This was no inconsistency. For in the conservative view, personality and individuality found their true purpose and fulfillment only within the framework of these relationships. Following this syllogism, condemnations of the horrors and indignities of life under capitalism are often set in direct opposition to descriptions of the blessings of patriarchy—not only for material well-being but also for human dignity. Thus, Méser wrote that while the free man was rootless and unprotected, “serfdom provided security and even honor, and the relationship upon which it was based was voluntarily accepted by both sides.”¹⁴⁶³ Typical are antithetical formulations such as the following: “One destroys the police authority and judicial authority of the estate owners and replaces them with the far more oppressive and far less accountable power of the employer over a destitute and defenseless workforce.”¹⁴⁶⁴ Similarly, in his final writings, Haller lamented that “tithes, land rents, and the entire feudal system had been discarded by the spirit of the age, yet no one objects to the yoke of slavery under heartless factory owners, who cripple their workers with excessive labor and can drive them into beggary at any moment.”¹⁴⁶⁵

The capitalist system, all in all, stands in opposition to human nature, and this opposition is also felt by the people subjected to it. For despite its horrifying extent, desensitization and wear do not completely eradicate human needs, resulting in a permanent tension from this ambivalent state. Likewise, the capitalist system contradicts the nature of the state (in the old sense), which thrives on the harmonious development of all its components and therefore cannot submit to the principle of private self-interest, which industrial division of labor serves.¹⁴⁶⁶ What conservatives counterpose to this distorted world may sound quite modern today, yet it is merely a component of the Graeco-Christian ideological tradition. Against the ideal of the *vita activa*, as embodied by *homo faber* or *homo oeconomicus*, they assert that of the *vita speculativa* in its Christian version. At the same time, they

¹⁴⁶¹ 783. II, 485 (Article *Arbeit, Arbeiter, Arbeitszeit*).

¹⁴⁶² 784. Coleridge, *A Lay Sermon*, *Collected Works*, VI, 206, 211

¹⁴⁶³ 785. *Der arme Freie* (1791) = *Werke*, IX, 162f.

¹⁴⁶⁴ 786. L. v. Gerlach, *Denkwürdigkeiten*, I, 107.

¹⁴⁶⁵ 787. Quoted in Lenz, *Agrarlehre*, 79.

¹⁴⁶⁶ 788. Müller, *Abhandlungen*, 43

invoke the Aristotelian-Scholastic theory of the ethical purpose of the state against liberal eudaimonism and economism. The pious declaration that *Man does not live by bread alone*¹⁴⁶⁷ and the reminder of "*the higher essentiality of human nature*" are directed against liberal national economists' attempts to make man entirely absorbed in labor, presenting a social order dominated by labor and division of labor as the natural order.¹⁴⁶⁸ In response, they return to the biblical doctrine of labor as a curse. A man who serves or labors, writes Müller, becomes a thing, for he does so out of necessity; yet, if he performs this work of necessity with love and fear of God, meaning in awareness of his limits and in recognition of his higher purpose that transcends this labor, he regains his freedom and can find purpose even in work. However, if he makes mere profit his goal, then "*he steps out of the realm of freedom and personality and into the domain of slavery and things.*" The same principle applies to man's relationship with material goods. Whoever thinks only of profit deals with them recklessly; by contrast, whoever follows the principles of "Christian economy" seeks to integrate them effortlessly into the circle of his life and personality—"*he animates, he personifies them,*" he treats them lovingly, because he always first thinks of God, the creator of all things and order, then of the preservation of his fellow man, and only last of profit: "*this is the true earthly household order.*"¹⁴⁶⁹ It is evident that this Christian argumentation merely sublimates the priorities of a self-sufficient natural economy. This becomes clear in other conservative national economists as well. Villeneuve, for instance, contrasts the bourgeois degradation of labor, which considers only the sensual man and his material needs, with leisure devoted to higher things as a necessity of man's spiritual nature—from which he concludes that "*man should consume little,*" since "*multitude des besoins*" leads to degeneration.¹⁴⁷⁰ Scarcity of goods or deprivation, as well as social inequality, are thus natural and inescapable conditions,¹⁴⁷¹ concretely, this means that only a hierarchically structured agrarian society is viable. For many other authors, the condemnation of capitalist economy takes the form of a rejection of modern materialism and eudaimonism, coupled with a call for spiritual life in the spirit of Christian reflection.¹⁴⁷²

The social-political consequences of the capitalist economic system also have regrettable effects on human nature. The autonomy of the economic sphere or even its supremacy among the activities of society—leading to the absolute subjugation

¹⁴⁶⁷ 789. For example, *ibid.*, 35.

¹⁴⁶⁸ 790. Müller, *Von der Notwendigkeit*, 187.

¹⁴⁶⁹ 791. *ibid.*, 192, 1886.

¹⁴⁷⁰ 792. *Economie politique*, I, 251, 156; capitalism is accused of "excitation perpétuelle des besoins physiques" (I, 24).

¹⁴⁷¹ 793. Same source, I, chapter LII

¹⁴⁷² 794. For example, Brandes, *Zeitgeist*, 1294; Radowitz, *Gespräche*, VI = *Ausgewählte Schriften*, I, 152; Coleridge, *A Lay Sermon*, *Collected Works*, VI, 173, 189.

of man under the harsh laws of competition and division of labor—was tied to a whole series of separations, foremost among them the separation of state and society. Due to the detachment of the modern state from ethically oriented politics in the old sense, morality and legality, private and public life fall apart, so that the commonwealth loses its unity and appears as a mechanical sum of heterogeneous spaces that are barely hierarchized among each other: “*All the vital organs of the social association—state and school, church, marriage, and guild—are now isolated and torn apart, or they interfere with and hinder one another, working against each other.*”¹⁴⁷³ Just as the commonwealth is fragmented, so too must man now divide himself into as many parts, and—since this fragmentation corresponds to the operating mode of the modern commonwealth—he must abandon hope of binding the *membra disiecta* of his personality into a harmonious whole. “*The citizen must therefore be separated from the man when political relations are discussed,*” yet without the man, “*the entire dignity of the citizen*” must remain something merely contrived and artificial.¹⁴⁷⁴ The view that the state exists only for external needs necessarily results in the division of the inherently unified human essence into an inner and an outer man: the former acts spiritually, the latter acts mechanically. This “fragmentation of the civic being into external and internal actions, into relations of coercion and conscience” ultimately leads to the renunciation of the nobler part of human nature, to the loss of “*the feelings and thoughts of man*”, and ends in “*crude obedience, in the fear of the ruled instead of all love.*”¹⁴⁷⁵ Under the combined pressure of the economic and social-political factors that uphold the liberal-capitalist system, the alienation of human nature thus reaches its outermost limit. Yet while the socialists, based on this very diagnosis, derived the prognosis or demand for a new, this time final revolution, the conservatives expected that the deepening of the cultural and ethical crisis would lead to a revival of the values and ideological structures that had once supported the traditional rule of the aristocracy. However, they could not explain more concretely how such a return to tradition could possibly restore the now-destroyed real foundations of the *societas civilis*.

8. Conservatism, Its Intellectuals, and the Thought of the Enlightenment

The opposition between conservatism and the Enlightenment has often been seen as constitutive for the emergence of the former. While this is not entirely the case,

¹⁴⁷³ 795. Fr. Schlegel, *Fragmente* (1820) = *Werke*, XXII, 20.

¹⁴⁷⁴ 796. Rehberg, *Untersuchungen*, I, 49ff.

¹⁴⁷⁵ 797. Müller, *Elemente*, II = p. 24.

¹⁴⁷⁶ the contrast with the Enlightenment undoubtedly plays a significant role in conservative thought after 1789. The specific themes that fueled this opposition—such as the positions conservatives took against bourgeois-liberal deism, individualism, anthropocentrism, rationalism, and progressivist optimism—have already been discussed. Therefore, they will not be revisited here. This is, incidentally, the most thoroughly examined aspect of the general problem of conservatism, though its significance has been overstated due to ignorance of the central issue of sovereignty and its connection to the defense of the legal conception of the *societas civilis* since the 16th century. Instead, this section aims to highlight another aspect, one that has been obscured by widespread misunderstandings regarding the nature of the Enlightenment. In any scholarly discussion of the opposition or relationship between conservatism and the Enlightenment, it is crucial to avoid relying on a conception of the Enlightenment shaped by conservatives themselves in their polemics against it. It is hardly unusual for polemics to construct an image of the enemy tailored to their own rhetorical needs. Above all, this image must not include elements borrowed from the enemy's own thought, only to be turned against him. If we take conservative statements about the Enlightenment at face value—accepting their interpretation—we would find no points of contact between these supposed adversaries. However, the matter appears in a different light when we closely examine the intellectual origins and significance of certain conservative tropes. This complex dialectic of enmity and kinship—of enmity within kinship and kinship within enmity—only becomes comprehensible when we view ideas not as ideal entities permanently bound to stable carriers, but as available weapons that can be used differently in each situation, entirely independent of the intentions of their original authors.¹⁴⁷⁷ Perhaps it need not be explicitly stated that none of this is meant to suggest that all aspects of the conservative intellectual complex were merely modified or inverted adoptions of Enlightenment ideas. Quite the opposite. The focus here is on very specific aspects, which are not always decisive, yet must nonetheless be duly considered in any comprehensive account of conservatism.

The greatest conservative legend about the Enlightenment, and at the same time one of the main conservative accusations against it, is the claim that the Enlightenment as a whole was intellectually rigid and had sacrificed the living, historically and geographically situated human existence on the altar of abstract reason. This is a fundamental error, though one that has strongly shaped the 19th- and 20th-century understanding of the Enlightenment in different ways and for different reasons. While an intellectualist tendency certainly existed within the intellectual spectrum of the Enlightenment, it was by no means its defining characteristic. The main current of the Enlightenment opposed what it saw as theological-scholastic and Cartesian intellectualism, and in doing so, it developed a

¹⁴⁷⁶ 798. Ch. I, Section 1, as well as the entirety of Ch. II.

¹⁴⁷⁷ 799. On this, see Kondylis, *Power and Decision*, Ch. III.

comprehensive anti-intellectualist position—not only in terms of epistemology but also in anthropology and the philosophy of history. At the same time, however, the Enlightenment upheld certain norms as universal and enduring, which necessarily put it in logical contradiction with the relativistic consequences of its own anti-intellectualism. This created an insoluble conflict between causal explanation and normative claims within the Enlightenment itself.¹⁴⁷⁸ What originally and primarily repelled conservatives about the Enlightenment was not its philosophical aspects in the technical sense of the word, but rather these norms, as they represented the direct opposite of the value hierarchy that had legitimized the power structures of the *societas civilis*. Moreover, to the extent that Enlightenment norms were presented by their proponents as universal and enduring, it was easy for conservatives to perceive them as products of an abstract, timeless reason—especially since the Enlightenment had necessarily placed reason at the center of its thought, not due to intellectualist sympathies, but in order to create an effective counter-concept to divine-ecclesiastical authority. From this point on, Enlightenment rationalism—originally meant as a commitment to certain norms—became conflated with intellectualism, which in itself refers not to any normative content but merely to a faculty of knowledge. That is to say, the conflation of substantive, normatively charged rationalism with intellectualism—which is in principle purely epistemological—occurred in the course of the conservative struggle against the specific content of Enlightenment normativity. The supposed errors of Enlightenment thought were then traced back to the alleged false form and method of Enlightenment thinking as such. Thus, the idea emerged that abstract principles must necessarily stem from an abstract mode of thinking—namely, the specifically Enlightenment way of thinking—and this made it possible to condemn the Enlightenment in its entirety and to construct a conservative theory in opposition to it. In reality, however, things were far more complex than this theory suggests, particularly because within the Enlightenment itself, the abstract nature (i.e., universality and permanence) of its normative claims often stood in contradiction with its specific anti-intellectualist tendencies. As a result, conservatives, in attacking the former, unconsciously aligned themselves with the latter—not because they had logically grasped and strategically exploited the internal contradictions of the Enlightenment, but rather because they acted without awareness of this dynamic.

By adopting the anti-intellectualist habitus that had developed during the 18th century and had since even become fashionable, conservative ideologues defended empiricism against revolutionary reason in an analogous manner to how the Enlightenment thinkers had championed the primacy of sensory experience over the constructions of scholastic syllogism or Cartesian deduction. And just as with the Enlightenment thinkers, this took place among conservatives on both epistemological and anthropological as well as social and historical-theoretical

¹⁴⁷⁸ 800. For a detailed discussion, see Kondylis, *Enlightenment*, especially Ch. V-VI.

levels. We have already outlined how conservative argumentation operated on both levels.¹⁴⁷⁹ Apart from this (unconscious) structural analogy, there are also examples of direct conservative references to Enlightenment ideas or thinkers, specifically in an anti-intellectualist context. At a time when the connection between the Enlightenment and the Revolution was not yet established, Möser approvingly cited Helvétius's view that sensation could only be grasped through repetition of sensation and not through concepts.¹⁴⁸⁰ But even after this connection had long been constructed, Bonald—without praising or even naming his predecessors—made use of the sensualist-based linguistic insights of Condillac and his school to ground his own linguistic theory epistemologically. The contradiction between these premises and his spiritualist intentions led him into various logical difficulties.¹⁴⁸¹ Precisely because conservatives appropriated intellectual achievements of the Enlightenment while simultaneously rejecting its norms and aims, they failed to recognize that in rejecting Enlightenment norms and aims, they were also adopting elements of the Enlightenment itself. For them, the Enlightenment was not an intellectual achievement but rather the ultimate normative error. This becomes evident on the level of the philosophy of history as well. In order to eliminate the role of divine providence in history, the Enlightenment was the first to take seriously the sensory rootedness of human beings and to initiate the systematic explanation of human action through sensory (geographical, economic, etc.) factors. By discovering historicity, the Enlightenment sought to devalue theological norms, but unintentionally, it also relativized the universal claim of its own norms. Because of this, the Counter-Revolution was later able to invoke the concrete historicity of the human condition to—this time intentionally and consciously—contest the universal claim of Enlightenment normativism. Such a universal claim, however, was not first introduced by the Enlightenment, as it had also characterized the traditionally theological ideology of the *societas civilis*. What was new about the Enlightenment, paradoxical as it may sound, was not the universal normative claim itself, but rather the discovery of historicity, which relativized any such claim. For the first time in intellectual history, there emerged the gap between universal normativism and historical perspective—a gap that conservatives exploited to discredit the Enlightenment's version of universal normativism in favor of their own.¹⁴⁸² References to the geographical, institutional, cultural, and even economic conditions of human existence now served as evidence that neither “*man*” as such exists nor do universally valid rights, devised by an abstract, ahistorical reason, apply to “*man*”.

¹⁴⁷⁹ 801. See above, Sections 6b and 6c of this chapter

¹⁴⁸⁰ 802. *Patriotic Fantasies*, IV, 5 = *Works*, VII, 28.

¹⁴⁸¹ 803. See the excellent account by Ferraz, *Histoire*, II, 94ff, 113ff, 144ff.

¹⁴⁸² 804. For example, in Möser, see Lorenzi, *Economic Conceptions of History*, especially 130ff, 160.

The extent to which conservatives were objectively bound to the anti-intellectualist mainstream of the Enlightenment is evident in their pejorative use of the concept of metaphysics. Whereas the Enlightenment thinkers had rejected and ridiculed the “*metaphysics*” of Scholasticism and Cartesianism as contrary to all experience, conservatives now spoke with the same contempt of “*metaphysical*” revolutionary theory, which brazenly disregards all previous political practice and does not proceed from the existing and thus the empirical, but from principles that lie in an ideal beyond.¹⁴⁸⁴ In this emphatic distancing from empty and impractical metaphysics, conservatives were compelled to grant primacy to practical utility, a position in which they were once again influenced by the utilitarian tendency of the Enlightenment. This is particularly visible in their defense of religion, not as revealed truth but rather as a socially indispensable institution. Thus, Möser argues that *the Christian religion is the best for the political constitution*—¹⁴⁸⁵ and although he leaves no doubt about the sincerity of his personal faith, he develops a view of the relationship between truth or error and desired social effectiveness that even a cold-blooded Machiavellian could endorse: “*Reason consists in choosing deceptions so that they work miracles... Thus the rule: man wants and must be deceived. But again, this is not a rule to be preached from every pulpit, nor to be exposed bare and naked to the Enlighteners. Here, too, the master must not betray himself. The theory, which deals with abstract men, must be correct; the practice, which deals with concrete human subjects, must deceive.*” In the same passage, truth is functionally defined—that is, as the connection of given realities in accordance with a specific economy and a particular purpose—and religion, tellingly also mentioned here, is compared to “*music, to console the unfortunate and to pacify the fortunate.*”¹⁴⁸⁶ The same secular-utilitarian perspective is evident, for example, in Brandes, who writes that while many dogmas could be formulated one way or another without making any practical difference, they should nonetheless be accepted in their traditional form because “*human religiosity in general requires adherence to some form of dogma for its overall stability.*”¹⁴⁸⁷ This profanation and politicization of the conservative

¹⁴⁸³ 805. Even the discovery of the national, which political theory and historiography of the Enlightenment opposed to the (Christian) universalism of *societas civilis*, later partly inspired conservative patriotism (indirectly), which positioned itself against liberal-enlightenment cosmopolitanism; see Valjavec, *The Emergence of Conservative Thought*, 148.

¹⁴⁸⁴ 806. Already Mallet du Pan, see above, note 659; typical Burke, see e.g. *Reflections*, Works, III, 240, 308, 351, as well as Rehberg, *Code Nap.*, 191, 94, 201 etc.; see also Maser, Works, IX, 205.

¹⁴⁸⁵ 807. Works, IX, 220.

¹⁴⁸⁶ 808. Works, X, 205, 202, 204. From a pragmatic-utilitarian perspective, the question of superstition is also addressed, see Works, IX, 149-151, cf. 226.

¹⁴⁸⁷ 809. *Zeitgeist*, 39. On related views by Rehberg, see Vogel, *Critique*, 38ff.

understanding of religion could at times go so far that religion was conceived purely in juridical-institutional terms—that is, as a complementary instrument for ensuring social discipline, which was primarily secured through legislation.¹⁴⁸⁸ The final step in this direction was taken when religious affiliation became nothing more than a symbolic marker of belonging to the conservative party. Balzac's remark—“*Politiquement, je suis de la religion catholique*”—was, of course, not something that a conservative politician could publicly declare.¹⁴⁸⁹

The cold examination of the religious phenomenon by conservatives who were secularly “enlightened” in their outlook becomes more comprehensible if we recall the longstanding rift between the nobility and the clergy since pre-revolutionary times—¹⁴⁹⁰one that only deepened with the increasing modernization of aristocratic lifestyle and worldview. The fight against the Enlightenment after 1789 was first taken up not by the nobility but by the clergy, though the majority of the nobility, under the impact of catastrophe and due to urgent ideological necessities, soon had to follow suit.¹⁴⁹¹ Even during the Restoration, de Maistre reproached the nobility, accusing them of having “*par sa monstrueuse alliance avec le mauvais principe pendant le dernier siècle*” lost everything, and he considered the reconciliation of the nobility and the Church a central conservative task for the future—thus, a condition not yet achieved.¹⁴⁹² However, the detachment of significant parts of the nobility from the Christian-traditional worldview and conceptual framework during the 18th century was merely a symptom of a broader secularization in the social and cultural realm. This process manifested itself in the establishment of certain concepts to such an extent that all parties were effectively forced to express their concerns, either regularly or occasionally, through these very concepts. While conservatives consistently defended the primacy of God over nature and human reason, after the triumph of these concepts in the age of the Enlightenment, their conservative usage often became unavoidable. In this context, however, “true” reason now meant precisely the opposite of Enlightenment reason (no longer self-legislation, but conscious submission to authority), and “true” nature was no longer a structurally and functionally autonomous counterpart to God, but rather the mediator of His commandments.¹⁴⁹³ Thus, the recourse to Enlightenment terminology in itself did not imply a substantive abandonment of conservative positions, but it did serve as an indication of the ongoing shift in power dynamics.

¹⁴⁸⁸ 810. See for example Rivarol, *Extraits du Journal*, *Œuvres*, IV, 92; Gentz, *Letter to A. Müller*, dated 19.4.1819 = *Correspondence*, 274.

¹⁴⁸⁹ 811. On this, see Leroy, *Histoire*, III, 185ff, 82.

¹⁴⁹⁰ 812. See above, Ch. II, Section 3a.

¹⁴⁹¹ 813. Baldensperger, *Mouvement*, II, 32.

¹⁴⁹² 814. *Du Pape*, *Disc. Prélim.* = *Œuvres*, Sp. 244.

¹⁴⁹³ 815. See e.g. Spaemann's analysis of these concepts in Bonald, *Origin*, 128, 142ff.

These similarities with the Enlightenment were not decisive for the content of conservatism after 1789, except perhaps in the establishment of its anti-intellectualist stance. This at least makes clear how, within a given intellectual-historical constellation, similarities can arise that actually intensify enmity rather than diminish it. A similar pattern can be observed in the social-morphological realm— for instance, when conservatives, in their attempts to ensure “*organic*” development through dirigiste or even dictatorial means, come to resemble revolutionary voluntarism. Here, we want to examine another social-morphological analogy that was equally unavoidable in the given historical situation. We know what conservatives thought about rootless revolutionary intellectuals.¹⁴⁹⁴ However, the separation of intellectuals as a distinct social group with specific characteristics was a phenomenon that extended across the entire social spectrum and was not confined to the revolutionary camp. Given the circumstances of the 19th century, conservatives, having to refine and intensify their ideological struggle, also relied on the services of intellectuals who were not aristocrats, who led unstable lives without a secure material foundation, and who sought fame or recognition in ways that more closely resembled Balzac’s young heroes than exemplars of traditional aristocratic ethics—something that often provoked resentment and contempt among the nobility. Even when the non-aristocratic apologist of the nobility was not a *bohémien* or a free-floating and, under certain circumstances, mercenary writer, but rather, for example, a modest state official, the condescending attitude or even outright arrogance from the *blue-blooded* was not absent. It is not difficult to grasp the psychological undertones behind Rehberg’s question: “*But why does the nobility itself consider its non-aristocratic defenders to be false friends?*”¹⁴⁹⁵ There is ample evidence of the daily struggles faced by intellectuals serving the conservative cause,¹⁴⁹⁶ and most of them no doubt felt similarly to Stahl, who once complained to the Gerlachs that they “*engaged him like a singer for the season.*”¹⁴⁹⁷ Thus, there existed a tension between the conservative aristocracy and its *own* intellectuals, a tension that also manifested in their respective positions on various issues. It is worth pausing to examine this matter, as it holds the key to understanding certain peculiarities of conservative thought structures that lie outside the traditional ideology of the *societas civilis* and cannot be properly grasped without considering the influence and position of intellectuals within the conservative camp.

The non-aristocratic but literarily gifted apologists of the nobility initially found compensation for various disappointments or humiliations by theorizing

¹⁴⁹⁴ 816. See above, Section 6b.

¹⁴⁹⁵ 817. *Aristocracy*, 192

¹⁴⁹⁶ 818. See, for example, the letters of A. Müller to Gentz, dated 24.11.1825 and 27.1.1826 = *Letters to and from Gentz*, II, 432ff, 437.

¹⁴⁹⁷ 819. E. L. v. Gerlach, *Posthumous Papers*, I, 350.

their own particular desires or ideal conceptions and incorporating them into the socio-philosophical constructs they devised to defend conservatism as a whole. Thus, Rehberg's bitterly quoted question is clearly linked to his conviction that claims to exclusivity in state service were unfounded and that "*the career of an individual should be determined by ability and not by origin.*"¹⁴⁹⁸ The effort at self-elevation takes on more sublimated and simultaneously more ambitious forms when, in the ideal counter-revolutionary social models they devised, *men of intellect* were assigned a central or even decisive role. This was not merely a Platonic reminiscence but rather an appropriation and, at the same time, an inversion of the views held by Enlightenment intellectuals regarding the role of the philosopher or scientist in a society of continuous progress. From a conservative perspective, such self-aggrandizing plans could, of course, be justified by pointing to the significant influence of the clergy in the pre-state condition of Western Europe. Such intellectual dreams are articulated by Fr. Schlegel when, in 1803, he writes in his private notes that "*the election of kings should be entrusted to scholars and not to knights.*"¹⁴⁹⁹ Here, it is evident that not only his still unbroken romantic self-confidence is speaking; for even sixteen years later, when he had become well acquainted with the daily realities of working in the service of the powerful, he continued to assign an almost equally high social role to theorists—again, in his private notes: "*That time is past when princes ruled their land like free great landowners and patriarchs, without any theory—only through science can we return—after so much has been ruined and harmed by false theories.*"¹⁵⁰⁰ It is also well known what form the dream of scholarly rule took in Coleridge's project of a *national clerisy*.¹⁵⁰¹

It is evident that the apologetic presentation of the social ideas and ideals of the nobility, due to the particular concerns of conservative intellectuals being mixed in, had to deviate somewhat from the traditional framework. A similar effect was produced by the defense of Christianity by authors who, instead of possessing a theological-scholastic education, had a modern literary education. Here, a thorough aestheticization of Christian motifs took place, with dogma and soteriology having to yield to secular considerations and, above all, to a secular mode of thought. Through this aestheticization, Christianity was justified not so much as an objective truth but rather as a subjective experience; even revelation was understood more as the elevation of the soul into the sphere of heavenly truths than as an act of God toward passive subjects. Intense feeling thus became the decisive authority, an expression—even a mode of existence—of a powerful individuality. The figure that emerged as its representative was a worldly lay apologist, who, in his poeticizing language, addressed the audience of salons and

¹⁴⁹⁸ 820. *Aristocracy*, 182ff., 213ff.; cf. already *Investigations*, I, 62.

¹⁴⁹⁹ 821. *Philosophical Fragments* = *Works*, XVIII, 492.

¹⁵⁰⁰ 822. *Fragments* (1820) = *Works*, XXII, 15.

¹⁵⁰¹ 823. Especially *Church and State*, VII = *Collected Works*, X, 69.

sought precisely to make Christianity *salonfähig*¹⁵⁰² (socially acceptable for high society). Beyond Christianity, the medieval feudal past was also aestheticized—not so much presented against the backdrop of concrete legal and power relations but rather as a fairy-tale-like space for the inspired activity of stylized figures, or *caractères sociaux*, as Chateaubriand called the *Prêtre* and the *Guerrier*.¹⁵⁰³ This stylization of the past was readily embraced by broad sections of the nobility, as it served as self-affirmation and also fulfilled certain propagandistic needs. But the aestheticization and sentimentalization of Christianity—likewise an intellectual creation and not originally an essential part of the conservative worldview—also had an effect on certain segments of the nobility, as it resonated with moods that had spread after the catastrophe. Those who had lost their footing and could no longer understand the world listened attentively and with relief when someone said that the Christian was like a traveler “*qui passe ici-bas dans une vallée de larmes, et qui ne se repose qu’au tombeau*”; that the universe stood full of mysteries, the first of which was man; or that the ultimate truths, “*qui demandent le demi-jour et la perspective*,” could only be discovered “*dans les abîmes du cœur*.”¹⁵⁰⁴

Although conservative intellectuals and writers could count on the favor of an aristocratic audience due to their aestheticizing constructions, the freedoms they took in interpreting and presenting conservative ideology sometimes clashed with the core principles and goals of contemporary conservative politics. The aesthetic-poetic stylization of the past could lead to the design of a conservative utopia, in which the pre-state social order was so ideologically grounded and so idealized that it no longer appeared as the institutional framework of aristocratic rule, but rather as an absolutely exemplary model of human coexistence that reflected the eternal cosmic order. A strong pan(en)theistic tendency was evident in this view, where God was thought to permeate the world through His living essence, so that nature and history were, as it were, His body. Against the backdrop of this pronounced monistic tendency—which saw itself as the most radical response to deistic dualism—the relationship between rulers and subjects was understood through the concept of identity: monarch and nobility were not merely rulers *over* the people but were in fact essentially identical with them, as the same all-encompassing spirit operated on both sides. Novalis outlined this connection between metaphysical and social monism as follows: “*From every true citizen of the state, the genius of the state shines forth—just as in a religious community, a personal God reveals Himself in a thousand forms. The state and God, like every spiritual being, do not appear singly but in a thousand diverse manifestations—only pantheistically does God appear whole, and only in pantheism is God fully present everywhere, in each*

¹⁵⁰² 824. See Rohden’s comments on Chateaubriand (*Maistre*, 28).

¹⁵⁰³ 825. *Génie du Christianisme, Deuxième Partie*, II, 9–12 = *Œuvres*, III, 145ff; cf. *Le héros chrétien* in *Première Partie*, VI, 5 = *Œuvres*, III, 106

¹⁵⁰⁴ 826. *Ibid.*, *Première Partie*, I, 2; *Deuxième Partie*, III, 1 and 8–9 = *Œuvres*, III, 9, 156, 174ff.

individual.¹⁵⁰⁵ This monistic portrayal of the *societas civilis* as a paradise, where the love of all for all prevailed, certainly had significant propagandistic advantages when it came to countering attacks against the “tyranny of the nobility,” etc. However, it often fell short in emphasizing strict hierarchy and the necessary reaffirmation of the firm boundaries between estates, which now had to be defended against revolutionary egalitarianism. On this point, the nobility was not as generous as “their” intellectuals, who could afford to be more liberal simply for the sake of aesthetic effect—especially since it was not their own rule but that of their patrons or benefactors that was at stake. Politically active and directly responsible conservatives had little patience for such *gallantries*, and they were similarly displeased when “their” intellectuals occasionally indulged in refined intellectual games, producing all sorts of constructions whose connection to pressing political issues and ideological tasks was not immediately evident. Of course, from their entirely modern perspective, the intellectuals could see in such works the justification for their own existence. However, most members of the conservative nobility, for whom the fundamental principles were sufficiently clear, as well as conservative politicians, generally had more pressing concerns.¹⁵⁰⁶

Against the backdrop of the ambivalent relationship between conservatism as a socio-political movement of the aristocracy and “its” intellectuals, one might also grasp the general character and historical development of so-called Romanticism in a more concrete manner. Conservatives involved in practical politics often found in Romanticism precisely what troubled them about intellectuals, including *their own*: the unrestrained self, following its own shifting whims and potentially sacrificing more important matters for its intellectual-aesthetic self-indulgences. Individualism and subjectivism were the two great sins that conservative circles around 1800 accused Fichte and his young Romantic admirers, foremost among them Friedrich Schlegel, of committing.¹⁵⁰⁷ In doing so, they indeed identified—albeit in a broad sense—the essential trait of the Romantic movement, which must be defined by the Romantic subject: one that treats the world as an

¹⁵⁰⁵ 827. *Letters and Works*, III, 643 (Fragment No. 2499).

¹⁵⁰⁶ 828. Typical in this regard are Gentz’s remarks on the various speculative attempts by A. Müller. The unease that Müller’s *On Opposition* caused him in 1804–1805 (see his letters to Brinckmann dated 19.9.1804 and 27.2.1805 = *Letters*, II, 226, 261ff, as well as to Müller on 9.1. and 22.3.1805 = *Correspondence*, 22ff, 27ff) intensified after 1815 with Müller’s latest high-flying ideas (see the letter to Müller dated 8.7.1816 = *Correspondence*, 220ff, as well as the letter to Perthes dated 12.5.1817 = *Letters*, I, 343); finally, he openly tells his friend that, in this way, he renders himself politically useless as a propagandist (*Letter of 8.10.1820* = *Correspondence*, 328ff). Metternich felt similarly towards Müller or Schlegel (Srbik, *Metternich*, I, 283, 308, cf. 374ff); his influence by Enlightenment thought (*ibid.*, 64ff, 95, 310, 322ff, 325ff, 337, 355) was certainly also a factor

¹⁵⁰⁷ 829. See, for example, Gentz’s letters to Brinckmann dated 25.4. and 17.9.1803 = *Letters*, II, 122ff, 154. On Rehberg’s aversion to the “terrorists of literature” in Romanticism, see Vogel, *Critique*, 239ff.

occasion and material for its ceaseless intellectual experimentation, constructing it anew from ever-changing perspectives and according to different attitudes—that is, in line with its own momentary inclinations. The isolated and emancipated bourgeois individual thus becomes the highest (aesthetic) authority and the creator of worlds.¹⁵⁰⁸ Since Romanticism is fundamentally an attitude of a subject that feels sovereign, one that remains independent of any specific content and can therefore adopt and assign itself a wide variety of contents, it can manifest under both a conservative and a revolutionary banner. That is, only the above definition of Romanticism can do justice to the pan-European scope of this phenomenon. Precisely because of Romanticism's innate adaptability—rooted in its individualism and subjectivism—conservatives, for whom these traits were the fundamental evils of modernity and the intellectual roots of the Revolution, regarded it with deep mistrust from the outset. It is a verifiable fact that Romantics who entered the service of conservatism as a socio-political movement of the aristocracy simultaneously ceased to be “*Romantic*” in the specific sense mentioned

¹⁵⁰⁸ 830. Thus, C. Schmitt, *Political Romanticism*, especially 23, 25, 141. However, Schmitt's book as a whole does not fully grasp this precise definition. One significant methodological error is that the author attempts to illustrate the Romantic subject's occasional relation to the world not through its intellectual products but rather through the personal transformations and fates of figures like Friedrich Schlegel and Adam Müller. Yet personal opportunism has, of course, existed in various ideological camps before and after 1800, making it a poor explanation of what is *specifically* Romantic. Moreover, it is unclear how an aesthetic movement can be understood by ethical standards unless one makes the nonsensical assumption that this aesthetic movement was inherently and necessarily linked to violations of certain ethical rules. Conversely, Schmitt overlooks the fact that A. Müller (whose clear distance from the subjectivism of Romanticism is not mentioned—cf. below) never changed his counter-revolutionary convictions, or that even non-Romantics, such as Gentz, went through the transformation from initially supporting to later opposing the French Revolution (on this, see Aris, *History*, 213ff; Aris correctly observes that Romanticism, in adopting individualism, absorbed a fundamental element of the Enlightenment). Although Schmitt suggests that the Romantics, in their advocacy for rigid hierarchical orders, betrayed their own essence (*ibid.*, 96ff), he does not delve further into this transformation—which no longer took place *within* Romanticism but rather marked its break. He regards everything that (former) Romantics said as part of Romanticism and traces, for example, the disagreements between Schlegel and Bonald back to Schlegel's Romantic attitude (*ibid.*, 160ff)—even though, in reality, Schlegel was merely voicing widely held conservative political and tactical concerns regarding the restorationist course taken in France (see Sections 2 and 3d of this chapter). Similarly, Salomon (*Middle Ages*, 70ff) fails to recognize this and claims that the opposition of “*Romanticism*” to “*Traditionalism*” proves the genuinely *revitalizing*, i.e., non-“*reactionary*”, character of the former.

The unfortunate attempt to construct an ideal-typical contrast between German and French conservatism following Schmitt's analyses was undertaken by Rohden; he claims that in Germany, literary or Romantic conservatism preceded aristocratic and clerical conservatism, while in France, the development was reversed (*German and French Conservatism*, 104, 106). Thus, Moser, Rehberg, Brandes, and Marwitz—or, on the other hand, Chateaubriand—apparently never having existed.

above. The sovereignty of the creative and inexhaustible individual, which had inspired Novalis and his friends in the final decade of the 18th century, had already faded in Adam Müller,¹⁵⁰⁹ who in 1803 sharply broke with Romanticism. For him, “idealism, romantic frenzy, sentimentality, the Enlightenment” were all essentially the same phenomenon in their one-sidedness and absolute subjective claims—“misguided paths of the individual.” Tieck and Fichte belonged together just as much as sentimentality and idealism, the latter being “the quintessence and highest peak of the Enlightenment,” since both equally sought the detachment of unrestrained revolutionary subjectivity from reality.¹⁵¹⁰ There was a necessary connection between this repudiation of the Romantic attitude in all its philosophical and political forms and active engagement in the conservative cause. For conservatism meant belief in a fixed, supra-individual order—not created by any human subject, let alone improvised according to aesthetic criteria—and thus required a radical rejection of all subjectivism and individualism. Apparently, no path could lead past the necessity of choosing between Romanticism and conservatism.

If this is understood in all its implications, then the notion of “Late Romanticism” (i.e., a Romanticism that supposedly persists despite the Romantics’ commitment to a fixed, supra-individual order) must be seen as misleading, as it conflates personal fates with conceptual structures. Fundamentally, a clear distinction must be maintained between the personal transformations of the Romantics and the *ideal type* of the Romantic attitude if the (intellectual) historical reality is to be satisfactorily explained. The thesis of Romanticism’s continuity is typically supported by the claim that in Romanticism as a whole, the ideas of individuality and communal experience were originally intertwined—though in *Early Romanticism*, individuality took precedence, while in *Late Romanticism*, the community did.¹⁵¹¹ Yet even if we were to accept (which is by no means

¹⁵⁰⁹ 831. As Meinecke (*Cosmopolitanism and the National State*, 141) has already noted

¹⁵¹⁰ 832. See Müller’s letter to Gentz, dated 25.6.1803 = *Correspondence*, 16ff.

¹⁵¹¹ 833. Kluckhohn, *Personality and Community*, 1-2. According to Kluckhohn, Romanticism differs from Conservatism through its respect for living uniqueness, which prevented it from stagnating into mere reaction (*ibid.*, 98ff). However, Kluckhohn operates with a very narrow and inadequate concept of Conservatism, which leads him to overlook the fact that the social doctrines he considers specifically Romantic are actually *typically conservative*. He makes this mistake because he fails to seek the specificity of Romanticism where it actually lies—namely, in the world-creating (aesthetic) activity of the Romantic subject.

He rejects Schmitt’s definition (*ibid.*, 96 note), but only opposes it with the vague assertion that Romanticism was neither entirely subjectivist nor entirely universalist. Poetzsch likewise sees the essence of Romanticism in the balance between a sense of freedom and a love of tradition; thus, the history of Romanticism is, according to him, merely a shifting equilibrium and an effort to encompass this opposition (*Studies*, 37). However, this does not explain why the actual development—at least in the realm of *political*

self-evident) that a reconciliation of *Romantic* individuality with a hierarchically structured community were possible at all, one must still ask: can individuality remain the same before and after its disciplining by the fixed supra-individual order of the community? And conversely, is the community, as perceived and experienced from the perspective of the sovereign, unrestrained Romantic subject, the same as that stable, hierarchical commonwealth that precedes any individuality and does not require its richness of feeling, but instead demands its discipline? Even if individuality and community coexist in Romantic thought, during the period when individuality prevails (i.e., during the *proper* period of Romanticism), the community is not affirmed as the reality of the *societas civilis*; rather, it is largely *constructed* by the aesthetic activity of the Romantic subject. That is, it forms a *fictional* community that embodies the (aesthetic) values upheld by the Romantic subject and is thus conceived in such a way that, were it real, it would serve as the *perfect* stage for the unfolding of that subject's abilities and talents. In this sense, such a community differs little from a vast audience captivated by the Romantic artist's enchantment. It is against this aestheticizing backdrop that the construction of the *conservative utopia* emerges, as we have just discussed. Conservative distrust of this vision stemmed not only from its occasional fraternal-egalitarian features—often thinly disguised reminiscences of the earlier revolutionary sympathies of its authors—but also from its artistically inflected character, which caused the traditional Christian-aristocratic ideology to fade into the background, placing the rule of the *Oikos*-leaders in the hands of artists and sages. However, the *actual* community that the (former) Romantics depicted and defended in the service of the conservative cause and the embattled aristocracy was of a very different nature. It was not a fiction of a Romantic creative subject—because by this

Romanticism—progressed from the predominance of the subject to the predominance of the community (and with drastic restrictions on the prerogatives of the former, along with significant changes in its concept), rather than the other way around—or why such a development even took place at all.

The Romantic balance between the dynamic *I* and the community as the space for the unfolding of this *I*'s forces is now set by Poetzsch in opposition to the supposed intellectualism and atomistic individualism of the Enlightenment (*ibid.*, 48ff), which leads him to commit a typical mistake of Romanticism research (especially older studies) in a typical way: he adopts the Romantic conception of the Enlightenment and then, in contrast to this (or rather, its condemnation), presents Romanticism in a favorable light.

On the basis of the same Romantic conception of the Enlightenment, Romanticism was also praised for having discovered collective individualities such as states and nations in their historical uniqueness (see, e.g., Below, *German Historiography*, 8).

This dual use of the concept of individuality—sometimes referring to the creative personality of the individual, sometimes to a supra-individual entity—obscures both the actual fundamental opposition between the Romantic and the Conservative and the ultimate subjugation of the former to the latter. In both cases, the term *individuality* cannot be used indiscriminately, since collective individuality, as either a construct of the Romantic subject or as a hierarchically structured disciplinary framework for all individuals in their class-bound existence, appears in fundamentally different ways (*see below*)

point, that subject had surrendered—but rather an *approximate intellectual reproduction* of the *societas civilis*, in which ideological priorities and structures of rule were clearly recognizable. There were still idealizations and embellishments, but these no longer stemmed from the drive for aesthetic effect; instead, they served *propagandistic purposes*. Whatever remained of the old Romantic spirit was now either repurposed for journalistic aims and public influence or preserved privately, in fragmented form. The *Romantic subject* was dead; the *modern intellectual*, with his internal divisions and powers of rationalization, lived on.

CHAPTER FOUR

IV. THE DISSOLUTION OF CONSERVATISM AND THE DISTRIBUTION OF ITS LEGACY

1. The Assimilation of the Nobility by Society and the Detachment of the Conservatives from the Ideal of the *societas civilis*

a. The Development in France

The French development after 1830 makes particularly clear the causal link between the fate of conservatism and the social position of the landowning nobility: the collapse of the latter in France destroyed conservatism as a socio-political movement and caused its ideological sterility. The French example is so vivid because the change in the position of the landowning nobility occurred abruptly. As has rightly been noted, history offers few examples of such a rapid and complete downfall.¹⁵¹² The landed aristocracy not only lost all significant influence in political and parliamentary life (despite its successes in defending protectionism), but it also definitively ceased to lead economically: industry soon became the main source of wealth, and accordingly, landowners' willingness to invest in agriculture declined. As a class, then, the landowning aristocracy would no longer play an important role in the social history of France.¹⁵¹³ The scope of the catastrophe of 1830 was well understood by conservatives in France and elsewhere; Jarcke, for example, noted at the time that in France the aristocracy of money was the only one remaining.¹⁵¹⁴ The conflict between landed aristocracy and bourgeoisie, having been decided and thus overcome on the national level, now continued on the narrower provincial stage, where the aristocracy still possessed certain strong, albeit isolated, bastions. But this often powerful local aristocracy was no longer the solitary peak of the social hierarchy, to which the wealthy bourgeoisie once looked up with reverence and envy; rather, it became merely a — certainly distinguished and separate — part of the world of the *notables*. And in their often intense local activity, besides their still-living self-awareness, one could also observe their gradual adaptation to existing institutions — a condition, under the given circumstances, for the successful careers of their most ambitious

¹⁵¹² 1. Lhomme, *Grande Bourgeoisie*, 37.

¹⁵¹³ 2. *Op. cit.*, 37, 40, 42.

¹⁵¹⁴ 3. *Collected Writings [Vermischte Schriften]*, vol. 1, 175, note.

members. The existence of a legitimist industrial and commercial bourgeoisie facilitated the reconciliation of the landed aristocracy with the fact and the ideology of bourgeois society. Similarly influential was the fact that parts of the old hereditary and administrative aristocracy — as well as members of the *noblesse d'empire* — supported the Orléanist dynasty and largely accepted the rules of play in the new social reality. For the unreconciled Legitimists, no other option remained than to withdraw, in the name of uncertain principles and loyalty, to their provinces and estates — continuing to cultivate their refined manners in ostentatious contempt for the vulgarity of the new ruling class, and ultimately surrendering themselves to their memories, their romanticized idealization of kingship, their utopian hopes — and their endless factional infighting in political isolation.¹⁵¹⁵

The varying willingness or ability of the different wings of Legitimism to adapt was reflected in its division into three main tendencies: an absolutist one, a legalistic-parliamentary one, and a legalistic one that advocated for extra-parliamentary action. The result of this endless wavering between conservative radicalism and conciliatory opportunism, and the fragmentation it produced, was political paralysis. A report from the Ministry of the Interior in 1840 on the Legitimists stated: “*La tête de ce parti, c'est-à-dire les grands propriétaires, restent chacun les bras croisés au fond de leurs manoirs*”¹⁵¹⁶ (“The head of this party, that is, the great landowners, each sits with arms folded deep in their manors”). Adhémar, who shortly thereafter published a survey of the Legitimist party, rightly observed that its post-1830 factions were at least indirectly a continuation of the main conservative currents of the Restoration period — namely the absolutist (Ultras), the constitutionalist (Charte), and the *royalistes nationaux*, who opposed both absolutism and the English constitutional model. The shifting and precarious alliances among these wings of the conservative party, as well as the frequent cooperation between conservative constitutionalists and liberals, had led to the victory of the latter and, beyond that, to disintegration and confusion within the conservative camp. This state of affairs worsened when the Legitimists attempted a fresh start after 1830. In trying to formulate a common program, “*ils cessèrent de s'entendre. Chaque fraction du parti prétendait faire prévaloir ses maximes particulières sur les idées des autres*” (“they ceased to agree. Each faction of the party sought to impose its own maxims over the ideas of the others”). The accompanying revival of old divisions thus led to the aforementioned emergence of distinct factions, following the earlier conservative currents.¹⁵¹⁷

Symptomatic of the downfall of French conservatism, however, is neither the fragmentation itself — though it was accompanied by at times bitter factional struggles — nor the temporary socio-political weakness of Legitimism following

¹⁵¹⁵ 4. Tudesq, *Notables*, I, 8, 196, 232f, 225; Rémond, *La Droite en France*, 79f, 52ff.

¹⁵¹⁶ 5. Tudesq, *Notables*, I, 233–235.

¹⁵¹⁷ 6. Adhémar, *Parti légitimiste*, especially 11, 18, 41–43.

the painful blow of the July Revolution. Rather, it is the detachment, visible in this situation and at this time, from the classical conceptual world of the *societas civilis*, under whose sign the still widely read works of de Maistre and Bonald had stood (as late as 1830, the latter presented a new systematic version of his social doctrine in the *Démonstration philosophique*). It is not openly stated — and is often unconsciously so — that the traditional conception of law had by now become obsolete and socio-politically unusable. Yet in practice, argumentation no longer proceeds from its principles but from the pressing need to somehow remain in the game during this bourgeois age of rapid progress. Conservatism is thus often defined from the perspective of progress, whose actual triumph is tacitly acknowledged, even if not approved. Legitimists continue to praise the *ancien régime* — and in this they follow Bonald,¹⁵¹⁸ for example — but what is characteristic is how little some of them identify with the cause of the pre-revolutionary nobility, and how insistently they emphasize the “truly” progressive role of the monarchy. Fouque d’Arles, for instance, sets out to demonstrate the achievements of the French monarchy in the spirit of “true” liberalism, claiming that the “usurpations” of 1789 and 1830 had unfortunately hindered the march in this direction.¹⁵¹⁹ As proof of this “truly” liberal attitude of the monarchy, he cites, among other things, its struggle against the *seigneurs féodaux*, who had behaved just as despotically as the current “*prétendus libéraux qui nous gouvernent*.”¹⁵²⁰ From Henry IV to 1789, France experienced an era of continuous ascent, evidenced by the consolidation of national unity, the expansion of freedoms, and the promotion of commerce, industry, arts, etc.; this liberal development culminated in the Constitution of 1791, whose promising beginnings were, he claimed, taken up again by the *Charte*.¹⁵²¹

It becomes clear in such statements that the more ground real liberalism gained, the more willing some Legitimists were to replace old-style conservatism with “true” liberalism (which had substantive consequences, not merely symbolic ones), in order to keep pace — to some extent — with actual developments. The quiet abandonment or radical reinterpretation of classical conservative principles was especially noticeable in that wing of Legitimism which accepted participation in political life even under the now-dominant liberal rules of the game. In this regard, it is telling how Locmaria, for example, uses a central principle of conservative social doctrine to derive from it the necessity of such participation: “*Quelle est la base de l’ordre social? La religion, sans doute. Or, c’est la loi politique qui règle ses rapports avec l’Etat; c’est la loi des finances qui entretient son culte. Qui fait la loi*

¹⁵¹⁸ 7. See also, chapter III, section 2; cf. Tudesq, *Notables*, I, 221.

¹⁵¹⁹ 8. Fouque d’Arles, *Esprit de la Monarchie*, I, 6f, 145

¹⁵²⁰ 9. *Op. cit.*, 73.

¹⁵²¹ 10. *Op. cit.*, II, especially 212, 175, 158, 163ff.

*cependant? les députés. Qui nomme les députés? les électeurs.*¹⁵²²” The vulnerable point in this chain of reasoning lies in the thesis that the deputies — and by implication, the (electorally qualified) people — were the sovereign lawmakers. From the daily confirmed experience that, despite all respectable invocations of the traditional ideology of *societas civilis*, law and legislation are in practice human constructs and expressions of a human will under given conditions, arises a de facto inversion of theoretically assumed priorities: religion is supposed to be the foundation of the state, but is itself conditioned by the state’s legislation. This drastic — even if perhaps not entirely conscious or intentional — shift in fundamentals ideologically underpins the open attitude toward the new society, its economy, and its politics. This openness goes so far that Locmaria explicitly refuses to equate Legitimism with the nobility alone. The noble title, he writes, “un fardeau, si ce n’est un frein... Les légitimistes forment un parti politique qui recrute dans tous les rangs, et dont la hiérarchie est exclusivement fondée sur le talent et sur l’honneur.”¹⁵²³ The detachment of Legitimism from the nobility and its transformation into a people’s party is recommended by a basic fact: “l’ancienne société est mêlée ou morte”; and conservative politicians, who must endure the harsh trials of competition within bourgeois society, must be cut from the right cloth and demonstrate through their abilities “quels seraient les hommes de l’avenir.”¹⁵²⁴ Locmaria’s plea for the radical modernization of conservative politics is not a sign of a conciliatory or tolerant attitude toward the July Monarchy — which precisely underscores how strongly the pressure of the new circumstances was felt, necessitating reorientation. Only a firm stance combined with active participation in the actually existing new society, he believed, allows for the effective defense of the interests grouped under Legitimism.¹⁵²⁵ This is the decisive new criterion underlying the call for modernization of conservative politics: conservative politics becomes interest politics; given the obvious irrecoverability of the old order, it can no longer be guided by the ideal of the *societas civilis*, but only by concrete and limited goals — with the tacit assumption that the framework for realizing these goals could only be the new bourgeois-capitalist society. Political theology or theological politics is no longer asked for, except in moments of rhetorical elevation. On the contrary, even terms that once stood at the very top of the classical conservative vocabulary are now understood pragmatically, in terms of their relevance to interest politics. Thus, the Legitimist Locmaria speaks of the once divinely graced kingship in this prosaic manner: “La royauté n’est point une pagode: c’est un intérêt; elle n’a de prix que par le mal qu’elle épargne et par le bien qu’elle fait.”¹⁵²⁶

¹⁵²² 11. Locmaria, *Devoirs*, 13.

¹⁵²³ 12. *Op. cit.*, 31f.

¹⁵²⁴ 13. *Op. cit.*, 33, 29.

¹⁵²⁵ 14. *Op. cit.*, 26f.

¹⁵²⁶ 15. *Op. cit.*, 34.

Not all conservatives under the July Monarchy thought or acted this way; on the other hand, those who did not wish to think or act like this were likewise unable to give conservative theory and practice new momentum — or even to maintain them at their former level. As for theory, de Maistre and Bonald remained the great teachers and masters even after 1830, but their works were no longer read as concrete guides to action, and their theoretical subtleties, premises, and implications increasingly lost relevance. The average conservative sought and found in them slogan-like leitmotifs, emotionally charged and used without close attention to context. A halfway competent application of classical conservative doctrine to the controversies that daily tested the coherence and patience of the Legitimists was, moreover, hardly conceivable. The Legitimists were still arguing over the errors and missed opportunities of the Restoration; their Catholic loyalty was shaken after the improvement of relations between the Vatican and the July Monarchy; and finally, part of them wanted to incorporate Napoleon's national achievements into conservative ideology, while many others strongly resisted this. Because classical conservatism proved incapable — after the fall of the nobility as the bearer of coherent conservative politics — of serving as a guiding star for conservative action, the conservatism of those unwilling to follow Locmaria's proposed path became increasingly vague and sentimental in thought. It survived either on memories or on a partly ritualized, partly hysterical cult of the person of the legitimate heir. With the inevitable bourgeoisification of life, the old specifically noble values faded, reappearing in generalized formulas whose vagueness allowed for adaptations and rapprochements, making them acceptable even to the "conservative" bourgeoisie: family, tradition, patriotism, religion, etc.¹⁵²⁷

Accordingly, the social critiques and socio-political demands of Legitimist conservatism become more general and vague. This means that the concrete reference to the pre-state conditions of the *societas civilis* and to the clear ruling position of the nobility is now usually absent when, for example, liberal democracy and parliamentarism, the greed of the *homines novi*, or the hectic and corrupt urban life (in contrast to the supposed rural idyll) are denounced.¹⁵²⁸ These ills are indeed blamed on the bourgeoisie, but the nobility as a real bearer of a comprehensive alternative is no longer seriously considered. And to the extent that such an alternative no longer appears within the conservative horizon, conservatives concentrate their firepower on specific issues that touch on their immediate interests or are prominent on the current political agenda. In response to the liberals' claim to *be* the people — and to have dethroned the legitimate monarch in the name of the people — they repeatedly and gleefully point out the gulf between the 94,000 eligible voters and the politically disenfranchised masses.¹⁵²⁹ Beyond this

¹⁵²⁷ 16. Tudesq, *Notables*, I, 212, especially 215, 218, 227.

Cf. Locke, *French Legitimists*, chap. IV.

¹⁵²⁸ 17. On these motifs in Balzac, see Guyon, *Pensée politique*, 634ff.

¹⁵²⁹ 18. Adhémar, *Parti légitimiste*, 30f; Locmaria, *Devoirs*, 24.

constitutional critique of liberalism, they regularly take up the theme of capitalism's insatiable greed, and in their fight against the system of *usure* (usury), antisemitic overtones (Rothschild, etc.) are audible.¹⁵³⁰ Third, they target economic and fiscal policy, which, oriented toward the growing needs of industry and commerce, causes the state budget to balloon, driving up public debt and taxes.¹⁵³¹ And finally, they attack the state bureaucracy, which, acting in the interest of the ruling bourgeoisie, steadily limits the influence of large landowners on provincial life — calling instead for decentralization and *assemblées provinciales*, or attempting to stir the countryside against “Paris.”¹⁵³²

The oppositional activity based on this narrow programmatic foundation was, especially given the existing fragmentation of forces, unable to halt the decline of Legitimist conservatism. Under Louis Bonaparte, it lost even more momentum and had scarcely any influence on events.¹⁵³³ It seems to have lived less from its own strength than from its continually — and at times artificially — rekindled hostility toward the Orléanists, who managed to align themselves advantageously with the bourgeoisie, pragmatically accepted the separation of Church and State and secular liberalism, and provided a concrete example of the ongoing convergence of (anti-socialist) liberalism and (no longer distinctively) conservatism. Fearing the advent of mass democracy, they emphasized the elitist-aristocratic elements of old liberalism, rejected the centralization and bureaucratization of the emerging welfare state, and advocated for *libertés locales* and *pouvoirs intermédiaires*. In doing so, they built bridges to their former social and ideological allies — bridges that, however, were seldom used due to dynastic conflict.¹⁵³⁴ Under this shared — if often reluctantly shared — roof with old liberalism, and by relinquishing its distinctive features, French conservatism was able to survive, but in itself it no longer had a clearly identifiable, socially influential bearer, nor a coherent ideology of its own. The loosely connected core motifs mentioned above thus clustered around the person of the current pretender to the throne. The strong monarch also stood at the center of the conservative constitutional drafts that, in the early 1870s, attracted broader attention when a somewhat realistic chance for the restoration of the monarchy presented itself for the last time. Alongside the strong position of the monarch, a weakening of the state (decentralization, reduced public spending, etc.) was proposed, while the social question was to be resolved through corporative and paternalistic means. Tellingly, equality before the law and open access to all

¹⁵³⁰ 19. Fouque d'Arles, *Esprit de la Monarchie*, I, 151ff; Tudesq, *Notables*, I, 228.

¹⁵³¹ 20. Locmaria, *Devoirs*, 14f; Adhémar, *Parti légitimiste*, 23.

¹⁵³² 21. Tudesq, *Notables*, I, 224.

¹⁵³³ 22. Rémond, *La Droite en France*, 104ff.

¹⁵³⁴ 23. *Op. cit.*, 125 ff., 138 f.

public offices were also guaranteed.¹⁵³⁵ Variations of this same program were presented by French royalists over the following decades. The problematic pairing of a strong monarchy and a weak state also underpinned the plans of the Comte de Paris before the Second World War, in which the atomization of plutocratic society was to be countered with a corporative order, special support for agriculture, etc. Universal suffrage was to remain, but voters would only decide on matters familiar to them within their respective corporations. Characteristically, these plans called for an alliance between monarchy and people against the moneyed oligarchy — a supposed continuation of the old alliance between king and people against the feudal aristocracy.¹⁵³⁶ As this reminiscence implied, the nobility was no longer seen as a pillar of the proposed social order — but nor was any other. The strong king floated in a social vacuum, and it remained unclear how the now-bloated state and the power of plutocracy were to be dismantled — or, conversely, how the envisioned decentralization could meet the demands of a modern economy. Such questions, however, are idle. For these plans were neither right nor wrong, neither conservative nor progressive — they were merely the dreamwork of relics lingering at the margins of real historical development.

b. The Development in England

We know under what configuration of power relations in 18th-century England the traditional conservative ideology was reduced to the mere fiction of an unbroken continuation of the *societas civilis*, while in socio-political and constitutional reality, an oligarchy — which generally thought in modern utilitarian terms and had long since turned its back on feudal patrimonialism — ruled sovereignly in essential respects.¹⁵³⁷ A vigorous revival, however, was experienced by English conservatism — as we encounter it in Burke's later work — on the one hand in the struggle against the reform-minded New Whigs in the 1770s and 1780s, and on the other in the context of the pan-European aristocratic reaction to the French Revolution. Remarkable theorists like Coleridge continued this new thread of English conservative thought, though initially lacking a domestic political focus, since the fight against Napoleon absorbed all of England's energy and both reformist and reactionary activity had to be postponed. After 1815, when domestic political questions again came to the fore and the opposition between Whigs and Tories increasingly became linked to class conflict, English conservatives began applying their theoretical principles to the domestic situation and, in the 1830s and 1840s — during the intense debates over the Reform Bill and free trade — produced the last notable formulation of English conservative thought. It found no significant successors and did not become the ideological banner of a broad political

¹⁵³⁵ 24. Osgood, *French Royalism*, chap. I, especially 12f.

¹⁵³⁶ 25. *Op. cit.*, 138ff.

¹⁵³⁷ 26. See also, chap. II, section 5.

movement, because in 1832 the country's traditional social and constitutional form underwent a change that made conservative politics in the old sense extraordinarily difficult: in contrast to the aristocratic parliamentarism of the 18th century, parliamentarism after 1832 brought about the decline of the former (noble) self-government.¹⁵³⁸ If the victory of the new liberal-industrial forces occurred so quickly and relatively easily, an important reason was that capitalist conditions had already prevailed in the countryside — that is, within the *landed interest* itself.¹⁵³⁹ The ease and breadth of the reform's victory, resulting from this, also explains why the new version of English conservative thought could not have a great future — especially since, from 1832 onward, a development was set in motion that would culminate in the dissolution of conservatism into (old) liberalism.

In the tense atmosphere of the years immediately preceding the passing of the Reform Bill, and in connection with it, conservative complaints about the “corrupt townsmen” and the urban life shaped by trade and industry were, understandably, voiced with particular vehemence. This could make for rhetorically powerful effect — especially when penned by major poets¹⁵⁴⁰ — but it was not a realistic political program. What the English conservatives of the time envisioned as a constitutional alternative to the Reform Bill can be gathered from the proposals of Coleridge, which express widely held conservative views of those years. We recall that, after 1789, a firm conservative constitutional strategy consisted in calling for the strengthening of the Crown, in response to the danger of a monopolization of sovereign power by a liberal or democratic legislature — so that the monarch would have legislative powers alongside executive authority.¹⁵⁴¹ Precisely this is also Coleridge's remedy. He finds it intolerable “that the King has been reduced to a puppet” and must even lend his signature to laws or measures he disapproves of. In opposition to a Parliament that takes another step toward democracy each day, Coleridge wants to equip the Crown with decisive legislative powers, since he recognizes that real power no longer lies in the executive (nominally led by the king), but in the sovereign legislature. In this context, he also questions the relatively recent identification of Parliament with the House of Commons, seeking to revive the older unity of *King, Lords and Commons* as the visible embodiment of the nation.¹⁵⁴² As a conservative, he does not see this strengthening of the Crown as a first step toward absolutism, since “absolute monarchy” and “democratic

¹⁵³⁸ 27. Meisner, *Monarchisches Prinzip*, 8ff.

¹⁵³⁹ 28. As the conservatives knew; Coleridge, for example, laments that the new money economy “has gradually taken possession of our agriculture,” *A Lay Sermon, Collected Works*, VI, 214ff.

¹⁵⁴⁰ 29. On these motifs in the older Wordsworth, see Brinton, *Political Ideas*, 60ff.

¹⁵⁴¹ 30. See also, chap. III, section 3bc.

¹⁵⁴² 31. *Talk*, 25.6.1831, 20.2.1833, 12.3.1833 = pp. 119, 195, 198; *Church and State*, X–XI = *Collected Works*, X, 826

republic" are equally repugnant to him.¹⁵⁴³ He therefore does not claim sovereignty for the monarch, but denies the sovereignty of Parliament — or more precisely, of the Commons — and in his conservative state allows no sovereign power at all, only a balance of groups, forces, and interests.¹⁵⁴⁴ Yet this idea of balance remains ambiguous and serves both to safeguard the old and to acknowledge the new — a concession he feels compelled to make. While Coleridge clearly rejects the *spirit of commerce* and considers the new political economy an "ideology of greed," he opposes to them spiritual values and an aristocratic rule guided by such values.¹⁵⁴⁵ Nevertheless, the power of the new and the need for compromise with it become visible in his effort to integrate trade and industry into his *ideal constitution*; to this end, he considers educating the leading class of the modern economy in the conservative spirit of the "clerisy." In this openness to the new, Coleridge went so far on certain issues (e.g., free trade or factory acts) that he provoked the displeasure of some Tories.¹⁵⁴⁶ This was a sign of growing uncertainty in the conservative camp.

Coleridge was the last Englishman who, following in Burke's footsteps and under the influence of continental thought, presented a comprehensive conservative theory. In it, the conception of law and constitution tied to the *societas civilis* still lives — or is at least revived — against its metaphysical background, though the aestheticizing of certain motifs reveals the hand of the intellectual and thus signals the change of times. After him, no coherent conservative theory with universal claims emerges; instead, conservatism articulates itself as a set of core themes that, depending on contemporary conflicts, come to the fore either individually or together. In the period immediately following the passage of the Reform Bill, the young Disraeli drew on these themes, especially in his polemic against the "oligarchic" Whigs, whom he accused of deliberately dismantling the unity of Church and State, the House of Lords, the constitutional power of the Crown, and the traditional rural judiciary, while ruthlessly enforcing centralization as the indispensable support of their rule.¹⁵⁴⁷ The enumeration of these themes amounted to a conservative programmatic outline. It was understood, of course, that behind the opposition regarding these particular issues mentioned by Disraeli lay an even more general and deeper one; yet efforts to foreground this deeper conflict and elaborate its ideological content became increasingly rare. The young Disraeli limited himself in this regard to a rather superficial polemic against

¹⁵⁴³ 32. *Church and State*, XI = *Collected Works*, X, 9. Already many years earlier he had equated Jacobinism with royal despotism, see *On the Errors of Party Spirit* = *The Friend*, *Collected Works*, IV, 216ff.

¹⁵⁴⁴ 33. See also Calleo, *Coleridge*, 9ff

¹⁵⁴⁵ 34. See the summary in Calleo, *op. cit.*, chap. I.

¹⁵⁴⁶ 35. Brinton, *Political Ideas*, 83.

¹⁵⁴⁷ 36. *The Spirit of Whiggism* (1836) = *Writings*, 354.

utilitarianism and Bentham's contempt for the wisdom of the ancestors.¹⁵⁴⁸ His own turn back to his country's political tradition, however, he combined with slogans and demands that gave conservatism a modern and dynamic form — albeit discarding several old conservative topoi as unusable. He does not counter the Whig "oligarchy" with a landowning Tory oligarchy, but aims instead to transform the Tories into a "national party," finding precedents for his peculiar populism in the suitably reinterpreted politics of Charles I, Bolingbroke, or Pitt the Younger. In this way, he constructs a conservative tradition with entirely distinct and novel features, while at the same time creating the refreshing legend of Toryism.¹⁵⁴⁹ In it, the strong king stands at the head of the entire people as the guarantor of its freedom and welfare, governing over the heads of one or another oligarchic faction. Because the wishes and interests of the broad masses are taken so seriously, "the Monarchy of the Tories is more democratic than the Republic of the Whigs."¹⁵⁵⁰ This is written, ironically, in a treatise that emphatically condemns the Reform Bill and universal suffrage.¹⁵⁵¹ In Disraeli's view, this is no contradiction, since for him "an assembly may be representative without being elective."¹⁵⁵² What is notable here is that this adherence to a core corporatist principle is not foregrounded in the argument, but rather overshadowed by the hymn to the unity of the people. Naturally, this "unity of the people" is not to be taken at face value in Disraeli's mouth — its counter-concept being the Whig oligarchy — yet the new tone, diverging from traditional conservative keywords, remains unmistakable.

The idea of the people-oriented *Patriot King*, in the tradition of Bolingbroke, stands at the center of the political thought of *Young England*. Manners and his friends look back longingly to James II and are enthusiastic about the struggle of the Spanish Carlists.¹⁵⁵³ By taking up and modifying Coleridge's notion of a national church, they aim to provide a religious foundation for conservative populism. The church — as the pillar of a thoroughly renewed and revitalized religious life — is to encompass the entire people, that is, great and small, rich and poor, reconciling them in prayer and inner elevation, and once more realizing within its fold the unity of a magnanimous aristocracy and a diligent peasantry, as it had existed in old merry England. In 1842, Manners calls on the Tories to follow the example of the French Legitimists and to seek an alliance with the people against the capitalist class; the religious education of the people and its simultaneous rapprochement with the aristocracy are here presented as a counter-program to what the Whigs advocate — namely, equal political rights for

¹⁵⁴⁸ 37. *Vindication of the English Constitution* (1835), ch. II and XI = *Writings*, 114ff, 146.

¹⁵⁴⁹ 38. *Op. cit.*, especially XXX–XXXI = *Writings*, 215

¹⁵⁵⁰ 39. *Spirit of Whiggism*, *Writings*, 340

¹⁵⁵¹ 40. *Op. cit.*, 342

¹⁵⁵² 41. *Vindication*, XII = *Writings*, 150

¹⁵⁵³ 42. Whibley, *Manners*, I, 133, 136, 75ff.

all and the spread of the spirit of progress and science.¹⁵⁵⁴ Moreover, one must note the strong aesthetic-literary coloring of the *Young England* conservatism, which also constitutes a novel — and potentially fertile — phenomenon. Manners and his friends are inspired by Kenelm Digby's glorification of chivalry, in which themes of religious renewal and of the alliance between aristocracy and people resonate; above all, however, they are captivated by Walter Scott's depiction of a heroic life rooted in the primordial, in which they perceive, as it were, a vivid conservative program.¹⁵⁵⁵ The readiness with which aesthetic-literary and political elements are here interwoven would, over time — and not only in England — increase, and represents a highly characteristic symptom of the dissolution of classical conservatism.

The ideas of *Young England* and *Tory Radicalism* were never able to become the program of a significant conservative movement — not because they had strayed too far from classical conservatism, but rather for the opposite reason: because the actual conservative movement in England distanced itself even further from classical conservatism in order to cautiously approach the bourgeoisie and liberalism. In fact, serious obstacles stood in the way of a populist yet traditionalist conservatism. The long-established capitalist conditions in the countryside — that is, the centuries-old commercialization of land ownership, its entanglement with capitalist enterprises, and the accompanying decline of feudal-patriarchal attitudes — made large parts of the nobility receptive to utilitarianism and the *laissez-faire* principle, so that these views had by now become an almost undisputed orthodoxy. Secondly, an anti-capitalist alliance with the lower classes and the Chartist movement would have entailed accepting universal suffrage — something that, especially so soon after 1832, was out of the question for conservatives. And finally, measures like the Poor Law, which were supposed to visibly demonstrate the new solidarity between landowning aristocracy and people, ran counter to the economic interests of the former.¹⁵⁵⁶ The actual situation, as it emerged from the entanglement of affairs and interests, naturally encouraged attempts to win the trust of the *commercial men* and the *manufacturers* from a moderate Tory position. Canning had already worked toward this, and Peel — as is well known — went further and more decisively down this path, incurring the wrath of the Tory Ultras.¹⁵⁵⁷ Under these conditions, a conservative radicalization such as that represented by *Young England* was to be expected — but so too was its ineffectiveness. The collapse of the entire social order, as prophesied by the Tory Ultras, did not occur; the old establishment was by and large able to adapt quite well (indeed, had this

¹⁵⁵⁴ 43. *Op. cit.*, 153ff, 137 ff

¹⁵⁵⁵ 44. *Op. cit.*, 130ff.

On Scott's spontaneously conservative, yet socially adaptive worldview, see the excellent analysis in Brinton, *Political Ideas*, 108ff

¹⁵⁵⁶ 45. Stewart, *Foundation*, 165, cf. 185ff

¹⁵⁵⁷ 46. *Op. cit.*, 26ff, 92ff

adaptability not existed, Peel's policies could hardly have been seriously pursued and implemented), and the calls of the party's ideologues ultimately went unanswered by the broader conservative base.¹⁵⁵⁸ The Corn Law question did lead, in practice, to the party's three-way split — but not due to any real resurgence of orthodox conservatism. Rather, it was because tangible interests were threatened. The conflict between protectionism and free trade did not strictly coincide with the one between old and new conservatism, though the two were intertwined. Its primary significance lay in showing to what extent conservative politics had become interest politics — that is, had tacitly accepted the rules of the new society. Under the pressure of this reality, even Disraeli, as a young conservative leader, had to forget or suppress the dreams of *Young England* and show a certain flexibility toward the bourgeoisie. Of course, restraint was required here, so as not to reopen fresh wounds — but the Conservative Party's isolation at the time was not due to this alone. As long as Palmerston embodied the great national common denominator, the party was condemned to a secondary role.¹⁵⁵⁹

When English conservatism recovered from this long period of weakness and soon became the strongest political force in the country, it was not a reward for patiently clinging to uncertain principles, but owed itself to the fact that it opened up and became bourgeois precisely at a time when large segments of the middle class, alarmed or frightened by the democratic excesses of radical liberalism, were looking around for a secure political roof over their heads. For decades, the industrial bourgeoisie had ceased to identify itself with the workers and with "Labour" (in its opposition to landed property), and as the radicals increasingly directed their appeals to the working class, it detached itself from them. From the opposition of the "Liberal Conservatives" to the radicals, an urban conservatism had already emerged during Palmerston's time in office. The initiative and energy for the internal transformation of the Conservative Party came from these new urban neo-conservatives — not from any carefully thought-out policy of the then conservative leadership. The new bourgeois members of the party displaced the old notables and established a modern party organization in the cities, replacing the old structure centered around the "men of influence." While in 1868 the Conservative Party still drew its parliamentary power mainly from rural constituencies under the traditional influence of the local aristocratic elite, by 1885 half of its MPs came from the cities, where their election was supported by a more or less disciplined party organization. "Influence" was thus replaced by propaganda.¹⁵⁶⁰ A few years after the Second Reform Bill, Disraeli at least felt able to appeal, in the name of the Conservatives, to all property owners — not just to the *landed interest* — while at the same time seeking to win the working class not through anti-capitalist slogans, but rather with nationalist catchwords. The

¹⁵⁵⁸ 47. Cf. McDowell, *British Conservatism*, chap. I.

¹⁵⁵⁹ 48. Blake, *Conservative Party*, especially 61ff., 88ff.

¹⁵⁶⁰ 49. Cornford, *Transformation*, 64, 66, 45, 41ff.; Blake, *Conservative Party*, 144

foregrounding of the general national interest in conservative phraseology and propaganda was symptomatic of the final acceptance of the liberal-parliamentary rules of the game by the Conservatives, who henceforth needed voters from all social strata. Beyond that, it even unintentionally contributed to the development of mass-democratic conditions. As a people's party, conservatism was only able to win over the working class to a limited extent — but it was all the more successful in what decisively shaped its future profile: namely, it not only reconciled with the bourgeoisie, but also provided it with the most reliable political guarantee for its property.

Under Salisbury's leadership, the development that had already progressed well under Disraeli reached its peak; now even the populist-nationalist tones faded away, while the guarantee of property for all property owners was emphasized even more strongly. Salisbury was the leader of those conservatives who saw the chief task of the time as containing the rising tide of democracy, and therefore considered an alliance with old liberalism against the further democratic development of radical liberalism to be necessary. The 1885 election was marked precisely by the defection of important segments of the bourgeoisie — who feared liberalism's democratic turn — from the Liberal to the Conservative Party. *The Times* wrote on November 30, 1885, of a "general revolt of the English boroughs against the doctrines lately forced upon them under the name of Liberalism."¹⁵⁶¹ The merging of conservatism into liberalism thus took, in England, the form of the liberal bourgeoisie transferring over to conservatism — but a conservative party in which the bourgeoisie could feel at home was only "conservative" insofar as it aimed to protect the property of all property owners. Conservatism thus lost its specific meaning: for the defense of property and freedom could just as well be understood as a liberal task; the particularities of the concrete situation ultimately determined what this task would be called.

c. *The Development in Germany*

The crisis and downfall of classical German conservatism as a social theory and movement cannot, of course, be separated from the crisis of the German — especially Prussian — nobility and its gradual assimilation into the new society. And yet, it must be noted that the latter crisis preceded the former by a considerable margin. This observation is to be understood in the sense that the crisis of the nobility — which around 1800 became apparent through the alienation of land due to debt and sale to bourgeois buyers, as well as through the growing number of nobles and their excessive rush into public offices¹⁵⁶² — in this initial

¹⁵⁶¹ 50. Feuchtwanger, *Disraeli*, x–xiii; Blake, *Conservative Party*, 118, 162; Cornford, *Transformation*, 58ff. (includes the cited sentence).

See also below in this section under d.

¹⁵⁶² 51. Summary in Martiny, *The Question of the Nobility*.

phase did not lead to the weakening but, on the contrary, to the theoretical and political intensification of conservatism. The forces of the new society were not yet strong enough to fully exploit the nobility's crisis; on the contrary, the crisis spurred the still-considerable strength (of parts) of the nobility into renewed activity, which — alongside tangible social and economic effects — produced an emphatic reformulation of the legal conception of *societas civilis*, an idealization of the nobility, and a general ideological revitalization of conservatism. During the very years this occurred, social transformations continued to progress in favor of the capitalist economic system and political liberalism. Under this pressure, nobles and conservatives had to begin reflecting on how the position of the nobility — which could not be preserved by blind resistance to the new — might instead be saved through timely and appropriate adaptation. Accordingly, reflections were made whose consistent endpoint was the abandonment of the ideal of the *societas civilis* and the recognition of the separation between state and society in its concrete implications. Even if the advocates of this reorientation were initially in the minority, their views — under the compelling force of the changing reality — gained ever more ground and significance.

Conservative reform proposals did not first emerge in the 1830s; however, they now often exceeded the framework within which they had moved a few decades earlier, with figures like Rehberg or Brandes, and they reflect the new and — from the now clearer long-term perspective — steadily weakening position of the nobility. Moltke, for example, in 1830, would have gladly renounced noble privileges in the army, noble tax exemptions, and *fideicommissa* (entailed estates), though on the other hand he strongly doubted the feasibility of implementing primogeniture in Germany and had no better proposal for rapprochement between nobility and bourgeoisie than moderation and affability on the part of the former.¹⁵⁶³ A further step in the same direction was taken in 1842 by Schenk zu Schweinsberg, who modeled himself on the English example at a time when it had already long been viewed with suspicion for its liberalism. In his view, the introduction of primogeniture — which would compel younger sons of noble families to turn toward industry and commerce — could serve as a desired bridge between the landowning nobility and the new bourgeois society. He had no objection to *mésalliances* (marrying below one's station) and also advocated for the abolition of tax privileges and patrimonial jurisdiction.¹⁵⁶⁴ The highest offices were still reserved for the nobility, but the tendency to break down estate-based distinctions as far as possible is unmistakable. It was clear to those involved where this dismantling would ultimately lead: to the unification and homogenization of society, accompanied by its separation from the state. The nobility would then become merely one among many social groupings, which — like all others — would have to fight for its interests within a constitutional regime, trying to extract

¹⁵⁶³ 52. On the Nobility, pp. 25 ff, 38 f., 49 ff.

¹⁵⁶⁴ 53. On the Lower Nobility, especially pp. 20ff, 35, 69 ff, 84f.

as many advantages as possible from the state. The elder Rehberg, in 1832, highlighted this with remarkable clarity: that the dissolution of estate divisions and legal equality would inevitably transform the nobility into just another interest group:

*"If the knighthoods no longer have interests uniquely their own to defend, then they will find the protection they need only in seeking refuge in the camp of the representative system — once so hated by them, and now capable of becoming so beneficial. In this, they must unite with all other estates to regain the strength they forfeited through their isolated position."*¹⁵⁶⁵

Already in the 1840s, the transformation of the nobility into an interest group was openly advocated, though the proponents of this view did not fully grasp all the political consequences of this transformation and thus believed they could manage with an estate-based monarchy and without making excessive concessions to liberalism. Bülow-Cummerow's claim that material interests would be the only solid ground for conservative politics indeed sounded like a declaration of bankruptcy for classical conservatism; he indirectly admitted as much when he proposed a new definition of conservatism, according to which the word "conservative," which "until now had not been properly understood by the nobility," should mean "preserving" rather than "clinging."¹⁵⁶⁶ Bülow-Cummerow, who had a fairly precise understanding of the inner decay of the nobility and the consequences of turning knightly estates into "saleable goods,"¹⁵⁶⁷ distanced himself from the traditional view of the economy as merely a part or aspect of politics (in the old Aristotelian sense), and thus dispelled the fiction of a supposedly still-existing unity of *societas civilis*. His tendency to view politics primarily in connection with economic and financial matters¹⁵⁶⁸ signaled precisely the departure from the political concept of the *societas civilis* and the recognition that politics (in the new sense) was the affair of the state — and that, accordingly, interest groups should approach politics solely from the standpoint of their interests. The determination of orthodox conservatives "to confront the crude materialism of this [Cummerowian] association, which even requests the stripping of the landed nobility's honorary rights,"¹⁵⁶⁹ implied their adherence to the old concept of politics. Precisely in opposition to mere interest-politics, E.L. von

¹⁵⁶⁵ 54. "Constitutional Fantasies...", p. 47ff; quoted in Vogel, *Critique*, note on p. 335.

¹⁵⁶⁶ 55. *The European States*, p. 215ff

¹⁵⁶⁷ 56. *Prussia*, vol. II, pp. 41 ff

¹⁵⁶⁸ 57. *ibid.*, vol. I, pp. 226 ff

¹⁵⁶⁹ 58. So von Thadden in his letter to E. L. von Gerlach, dated August 15, 1848 = E. L. von Gerlach, *Papers*, vol. II, p. 563. On the conservative opposition to Bülow-Cummerow's "Junker Parliament" and the lively activities of the agricultural societies in 1848, see Jordan, *Origin*, pp. 260 ff, 200 ff.

Gerlach emphasized that property itself was “a political concept.”¹⁵⁷⁰ The rejection of the “materialism” of interest politics cited here, however, did not signify any renunciation of the usual dogged defense of one’s own material interests, but merely signaled a willingness to retain the “spiritual” or “Christian” corollaries of noble landed property — namely, patronage, policing, and jurisdiction. As long as the state did not possess the monopoly on legal force, it could not fully separate itself from society; the transformation of the nobility into an interest group, however, implied its complete subordination within a society now fully distinct from the state — so that rejection of this final separation (in the form of the desire to preserve patrimonial rights) and rejection of that transformation were two sides of the same coin. Conversely, the relinquishing of patrimonial rights expressed a readiness to accept the structure and rules of the new society — one oriented toward the economy and granting the state a monopoly over all legal authority.

Characteristic of the new, no longer fully controllable course of events is the fact that even those conservatives who wanted nothing to do with mere interest-based politics within the framework and spirit of the new bourgeois society nonetheless found themselves compelled, at least initially, to modernize in a different way — thereby unintentionally altering their own character. This occurred due to the necessity — increasingly pressing from the 1840s onward — to engage in party politics and mass propaganda. At first, some conservatives resisted this, yet they were more easily won over to this modern form of politics — which presupposed modern society — because it involved combat and made combat possible, whereas limiting themselves to interest-politics felt like renouncing any struggle at all. In doing so, conservatives overlooked the fact that to engage in such a fight, they had to step onto the enemy’s terrain. In the era of undisputed aristocratic rule, the bourgeoisie had to organize itself as a *stand* (estate), adopting the political form of the nobility; now this relation was reversed: a nobility on the defensive developed a party-political practice modeled on patterns created by their bourgeois or democratic enemy in accordance with its own needs for struggle. This explains their initial discomfort even with the word *party*, and their estrangement from party organization, “which our opponents understood far better.”¹⁵⁷¹ Yet in their counter-revolutionary zeal, conservatives quickly overcame this disadvantage and excelled not only in modest but intensive local club organization,¹⁵⁷² but also in propagandistic journalism. When these enemies of all democrats and demagogues had to turn to the masses in the 1840s, they proved anything but squeamish about the means of influencing them. In particular, the practice of the *Kreuzzeitung* (“Crusade newspaper”) did not stop at distortion of facts, defamation of

¹⁵⁷⁰ 59. Notes, vol. I, p. 541; see also p. 424.

¹⁵⁷¹ 60. *ibid.*, vol. I, p. 326; vol. II, p. 78.

¹⁵⁷² 61. Jordan, *Origin*, p. 240

individuals, and the purchasing of information from highly unreliable sources;¹⁵⁷³ even E. L. von Gerlach spoke of the “vulgar politics of the *Kreuzzeitung*.”¹⁵⁷⁴ This turn toward the vulgar, however, constituted a kind of unintended modernization and democratization of conservatism — and it is of interest here only in that sense, not morally. There is, in fact, no statistic to prove that conservatives were “more moral” or “less moral” than political opponents, nor any reason to assume that their moral character deteriorated through their participation in the political life of the new society. What matters historically and sociologically is only that the existing potential for “immorality” was actualized in this particular way under these specific conditions. Systematic participation in the new “politics” had two significant consequences for the character of conservatism. First, conservatives shifted a large portion of their activities from the countryside into the cities — thereby objectively contributing to the strengthening of the power centers of the new society and its bourgeois life-forms, and exposing themselves to their influence. Second, they were compelled by the technical demands of political struggle to rely on people from other social strata — people whose origin mattered less than their abilities (of whatever kind). As a result, both the style and substance of conservative politics had to undergo further modernization.

The political victory of the “reaction” after 1848 did not resolve the chronic problems of the nobility, and thus also did not put an end to the oscillation between “principled” and “interest-based” politics.¹⁵⁷⁵ For social development was not fundamentally influenced by the course of political events. The general rise of the capitalist economy was reflected in the agricultural sector by the continuous increase in the number of bourgeois landowners — even though the nobility continued to hold top positions in the hierarchy of landownership. From the noble-bourgeois landowning aristocracy emerged a more or less unified entrepreneurial class, which, in its business methods and social features, did not differ fundamentally from the industrial entrepreneur.¹⁵⁷⁶ Without a doubt, the old nobility looked down with scorn on the upstart bourgeois estate owners, and often resisted the identification of the nobility with the *Junker* class. An anonymous author close to the *Standesherren* (mediatised princes) described the *Junker* type in

¹⁵⁷³ 62. *ibid.*, pp. 160, 215 ff, 227, 233 ff

¹⁵⁷⁴ 63. Notes, vol. II, pp. 34, 75.

¹⁵⁷⁵ 64. These common characterizations often give the impression that the proponents of principled politics were nobler and more idealistic than the advocates of interest politics. But this distinction has nothing to do with moral categories. Principled politics concretely meant that those involved held to the traditional legal conception or the old concept of politics, and therefore did not wish to renounce their patrimonial rights, while the interest politicians more or less accepted capitalist conditions in agriculture. It is hard to say which of the two was more self-serving; it was a matter of different assessments of the situation and tactics, not of different ethical attitudes.

¹⁵⁷⁶ 65. Rosenberg, *Problems*, pp. 17 ff, 22.

1868 as follows: "The most typical *Junker*... is a bourgeois estate owner. Wealthy like few among the old and established landowners, proud like a Spaniard, so conservative that he looks at the 'liberal' *Kreuzzeitung* with regret, hard like a slaveholder, narrow-minded and philistine like a petty bourgeois — and yet he places himself, with a certain naïve shamelessness and great pretension, in the ranks of conservative statesmen."¹⁵⁷⁷ If estate owners of bourgeois origin could contribute little to the refinement of manners and customs in the countryside, their narrow-mindedness and coarseness themselves provided a good psychological precondition for the turn toward pragmatic — though fanatically pursued — interest politics. The overall situation thus encouraged a continuation of the line proposed by Bülow-Cummerow. Building on this, the circle around the *Berliner Revue* distanced itself ideologically and politically from the *Kreuzzeitung* party. In contrast to the Gerlachs, they attempted to ground conservatism in historical and economic — no longer theological and juridical (in the old sense) — foundations, which evidently better served a practical politics of interests. This circle saw its own "historical significance" in the fact that, correctly interpreting the signs of the times, it sought to make the inherited tradition resilient by adapting it to modern developments. This adaptation above all included breaking with patriarchal notions — that is, abandoning the landed assumption that agriculture must continue to be "something other than a business." On this general programmatic basis, preparations began in 1867 for the founding of an interest-based representation in the form of a landowners' party. The *Berliner Revue* supported this movement without fully identifying itself with it.¹⁵⁷⁸

Even conservatives who were distant from the concept of interest-based politics — because they primarily thought in traditional, ideological terms — had to reckon with the new reality. With them, the constraints of the situation are sometimes more clearly, though unintentionally, expressed — as the example of Stahl illustrates. In 1858, Stahl observed that among the rural population, "a general dissolution into isolated individuals" was taking place, whereby "some, isolated, pursue profit in trade and commerce, while others, likewise isolated, each seek their daily labor for their necessities."¹⁵⁷⁹ Although the landed aristocracy remains "the conservative element in the country," patriarchalism is dead. For that reason, neither the arch-conservative Marwitz nor the reformer Stein could embody the "ideal Prussian statesman."¹⁵⁸⁰ Accordingly, the definition of the nobility's social position is adjusted. The nobility should be "first among the wealth-generating estates, though only first among equals"; it should possess "continuous property as an element of stability," but at the same time be an "open

¹⁵⁷⁷ 66. *Foundations*, p. 27.

¹⁵⁷⁸ 67. Hahn, *Berliner Revue*, pp. 22 ff., 57, 61, 70, 164 ff, 171, 177.

¹⁵⁷⁹ 68. *Parliamentary Speeches*, p. 91.

¹⁵⁸⁰ 69. *ibid.*, p. 81

estate," not dependent on birth or on the prince's arbitrary admission, but instead composed of all who "fulfill the visible conditions." Hereditary nobility should have "honorary rights, not political rights," and the estate owner may still have police authority, but not judicial power — with his functions gradually losing their patrimonial character and assuming an "official" one.¹⁵⁸¹ Wagener's *Staatslexikon* stated shortly afterward that the feudal conception of the nobility had become untenable: no patrimonial or court nobility could exist anymore, only one that operated publicly at the municipal level or in state offices — and this influence should rest not on privilege, but on the fulfillment of duty and law, on knightly and moral virtues.¹⁵⁸²

This willingness to renounce political privileges and transform patrimonial rights into state functions amounted to an acknowledgment — even an affirmation — of the separation between state and society. Several observers, who were sympathetic or at least non-polemical toward the nobility, now went a step further and reversed the question: they took the separation of state and society as an irrevocable fact and then asked what the nobility could best do under such circumstances. Schäffle formulated the problem in 1856 using entirely modern terminology. "The differentiation of the state and society concepts," he wrote, "has completely displaced the old conception of the nobility." As long as state and society were not yet separated, the nobility's social and political functions were intertwined. But with the disappearance of the latter — that is, with the state becoming autonomous — a "noble government" in the traditional sense was no longer conceivable.¹⁵⁸³ So how can the nobility nevertheless remain a "prominent estate" within the new bourgeois society? In which domains and by what means can it still act successfully? Its main economic activity will be "industrial agriculture," that is, farming conducted on a capitalist and technological basis. Intellectually and ethically, the traditional legitimation grounded in the legal conception of *societas civilis* gives way to distinct noble virtues such as refined

¹⁵⁸¹ 70. Legal Philosophy, vol. I, part 2, pp. 105, 107, 110, 115, 123 ff

¹⁵⁸² 71. *Staatslexikon*, vol. I, pp. 379, 380, 384 (entry: Nobility).

Other articles in the *Lexikon* show in what economic assessment this revision of the nobility's social position was undertaken.

In the article "Agriculture" (vol. I, p. 245), for example, we read that the operation of agriculture requires "a relatively large amount of capital," namely financial capital. Under the impression of the ongoing rapid economic development, technology and industry are also assessed more nuancedly: the advances of machinery would arise from "a God-willed impulse inherent to the human spirit," only the harmful side effects are to be attributed to "selfishness," etc. (vol. XIII, pp. 38, 40, entry: Machines). Accordingly, a basic distinction is made between "good" and "bad" money and capital, or between "good" and "bad" industry; industry itself is not to be abolished, but only the "exclusive rule and exclusive right of mobility and industrial ownership" (Foreword, vol. I, pp. 9f).

¹⁵⁸³ 72. Concept of Nobility, pp. 79 ff

manners, integrity, and courage. Scientific and agricultural knowledge should supplement the humanistic education of the aristocratic cosmopolitan. The primary political task of this (open) nobility, finally, is to advocate for “moderation”; to defend its own interests, it should again unite into a *Genossenschaft* — that is, a party — which will participate equally in the political game alongside other such interest-based political representations.¹⁵⁸⁴

It is no surprise that such observations and proposals were — not unjustly — interpreted by classical conservatives as unmistakable signs of decline. Even in earlier times, conservatives had voiced many bitter criticisms about the actual state of the nobility,¹⁵⁸⁵ but back then conservative publicists could still effortlessly produce apologies and idealizations of the noble estate as a whole. Now, by contrast, criticism prevails, and the apologies grow ever quieter and more pragmatic. Above all, those who could only be satisfied with the unabridged ideal of *societas civilis* are now inconsolable; they lament the collapse of all “medieval conditions,” the indifference and “spiritual emptiness,” the “rotten egoism and egotistical laziness,” the “falseness and disloyalty in professed beliefs,” the lack of will to act and to govern.¹⁵⁸⁶ Particular attention is also given to the effects of the establishment of capitalist conditions in the countryside on the character of conservatism and the emergence of a new human type: conservatives who confront the crises of the world only negatively and are almost solely *farmers*, who have willingly relinquished patrimonial jurisdiction, would gladly do without policing, and understand as little of the driving forces of the age as of Christianity — especially in its application to state and time.¹⁵⁸⁷ It is admitted that in the face of the effects of centralized administration and modern industry, “our decaying conditions have proven insufficiently vital and adaptable,¹⁵⁸⁸” and, finally, the worst is feared: “If there is not soon a revolution or something else that ‘cuts to the flesh,’ then the ambitious, liberal bourgeoisie may soon find it easy to take our place. — Why is that? Because the Christian element in the knighthood is now scarcely represented; the bulk consists of the minor *Junker*, and above all, of the liberal industrial bourgeois.”¹⁵⁸⁹

This internal decay of the nobility — the chief social bearer of conservatism —

¹⁵⁸⁴ 73. *ibid.*, pp. 64f, 67, 73, 77 ff, 98 ff, 102 ff

¹⁵⁸⁵ 74. An example among many: In 1810, Marwitz wrote (vol. II, p. 164), “The nobleman became, along with the burgher and the peasant, a harmless, impassible creature who goes about his daily nourishment.” Nobles are farmers, somewhat more skillful than the peasant,” whereas former nobles were “lords.”

¹⁵⁸⁶ 75. E. L. von Gerlach, *Notes*, vol. I, p. 444; vol. II, pp. 135, 207, 230; *Papers*, vol. I, p. 197. See Meinecke, *Diaries*, p. 78; L. von Gerlach, *Memoirs*, vol. I, pp. 107 ff, 166, 188.

¹⁵⁸⁷ 76. E. L. von Gerlach, *Notes*, vol. II, p. 241.

¹⁵⁸⁸ 77. Letter from Friedrich von Gerlach to E. L. von Gerlach, June 21, 1863 = *Papers*, vol. II, p. 1147.

¹⁵⁸⁹ 78. Letter from von Berg to E. L. von Gerlach, *ibid.*, vol. II, p. 927.

had to produce symptoms of disintegration at the level of ideology as well; in other words, it bred uncertainty and confusion. Conservative reality was fractured, and though each of its fragments still carried a certain conservative element, anyone who, under the new conditions, attempted to reassemble the scattered remains inevitably became entangled in irreconcilable contradictions and was driven to resignation — even to corrosive doubt.¹⁵⁹⁰ As Leopold von Gerlach wrote in 1857: “Faith has so vanished from politics, and doubt has taken over to such an extent, that one can almost only live hand to mouth.” Already six years earlier, he had described the now irreconcilable aspects of what had once been a unified conservative ideal, along with the tangle of conflicting currents and opinions, in the following vivid terms: “But where have we ended up, in that we — authorities and subjects — have renounced law, indeed have forgotten it, in that we no longer believe in law, no longer trust it? The Emperor does not want constitutionalism, and he is right; the subjects want security against the arbitrariness of princes, and they too are right; the Emperor also mistrusts the estates, and he is again right, when one looks at our two united Landtage; Dr. Frantz rages against the bureaucracy, and he too is right.¹⁵⁹¹” Liberals pointed to this growing inner disunity and theoretical confusion within conservatism with understandable *schadenfreude*.¹⁵⁹² Tellingly, however, this disintegration was also acknowledged by some conservatives themselves, either explicitly or through attempts to redefine the very concept of conservatism. As the *Staatslexikon* had to admit, reality had by now changed so drastically in the unwanted direction that talk of “conserving” no longer had its original meaning. On the other hand, they did not wish to be merely “destructive” either.¹⁵⁹³ The only conservative path remaining, it seemed, was constructive work within a world that no longer aligned with traditional conservative ideals. And since this world — for better or worse — was characterized by the dominance of progressive forces, conservatism and the act of “constructive conserving” came to be defined from the standpoint of progress itself. In their now constitutive relation to overwhelming progress, conservatism and its aims signaled both the intention to preserve tradition as much as possible — without force — and to ensure its gradual, painless decline, while simultaneously adapting its viable remnants to the world of progress.

¹⁵⁹⁰ 79. *Memoirs*, vol. II, p. 526

¹⁵⁹¹ 80. *ibid.*, vol. I, p. 632

¹⁵⁹² 81. To the question: what is to be conserved, each of the designated groups within the conservative party will give a significantly different answer” — Rochau, *Principles*, p. 119.

Twستن stated in a speech on April 17, 1866, that after recent events there would be “no conservative party in the previous sense anymore in Prussia... in internal politics they have long since abandoned all that under Friedrich Wilhelm IV they regarded as the tasks of conservative or feudal politics.” E. L. von Gerlach noted this sentence, see *Papers*, vol. I, p. 62f

¹⁵⁹³ 82. vol. V, p. 541 (entry: Conservative).

This essential shift in content — which the concept of conservatism undergoes after its separation from the guiding ideal of *societas civilis* — is visible even in later conservative authors who by no means supported the assimilation of the nobility into the new society. Stahl, for example, defines the “conservative principle” using two criteria. According to the first, “the inherited constitution,” not some abstract constitutional plan, must form the starting point for any change or development. According to the second, the conservative should be marked by “a certain preference for the existing order and a striving for a slower pace of change.” That “change” is in any case already underway is taken as beyond doubt — and it is precisely this insight that orients the conservative principle. For it is by no means a matter of stability; it by no means excludes thorough reforms, where they are needed, or the utmost energy against abuses and evils... It does not consist in retaining old principles, but in preserving the substance. Its opposite is not reform, but a lust for novelty — radicalism and destruction.¹⁵⁹⁴ Similarly, Leo in 1864 also defined “conserving” in terms of the idea of progress: “To conserve politically means: to preserve institutions, customs, rights — in short, the entire content of political life — in a continuous, flourishing, growing, and becoming state — in progress, but in truly fruitful progress — and to ward off the kind of progress that leads to dissolution and decay — which is in truth regression.¹⁵⁹⁵” Conservatism thus relates to the *pace* of change, no longer to a fixed social model — even if such a model may still be in Leo’s mind. Hence Leo also claims there is no conservative theory or set of conservative prescriptions that can rightly claim universal validity. In each country, progress and conservation take on their own unique and particular character; there is no more a single idea of freedom than there is a single idea of the state.¹⁵⁹⁶ This assumption of the concrete location of law did, to be sure, form part of the legal conception of *societas civilis* — though in that conception, concretely localized legal orders were still subordinated to one universal divine-natural law. As the legal conception of *societas civilis* fades and recedes from view, and as conservatism is redefined from the standpoint of progress, all conservative universalism is renounced — a further sign of the theoretical dissolution of conservatism itself.

Even within the circle of the *Standesherren* — who saw themselves as the *praecipua membra* (“principal members”) of the conservative party — many assumed that the “nobility as ruling estate” in the old sense no longer existed, and that its remaining privileges often held merely nominal value.¹⁵⁹⁷ The *Standesherren*, it was said, “must earn their significance in the political struggles of the time in order to possess it”; party organization and participation in the political life of the

¹⁵⁹⁴ 83. Legal Philosophy, vol. II, part 2, pp. 227 ff

¹⁵⁹⁵ 84. What is Conservative? = *Nominal. Thought Traces*, p. 43

¹⁵⁹⁶ 85. *ibid.*, pp. 45 ff

¹⁵⁹⁷ 86. *Foundations*, pp. 18, 70 ff

new society were thus deemed unavoidable. The “reality of historical law” and the “historically evolved as point of departure”¹⁵⁹⁸ were to remain the programmatic foundation of such participation. This time, however, they were also linked to positive tasks envisioned within a forward-oriented developmental perspective: “The negation of the revolution — i.e., of the absolute rupture with law — was the signature of our emergence as a party; the entire legal order, its legitimate, organic development and deepening — that is the positive content, the task, the principle of conservative politics.¹⁵⁹⁹” This became concretely expressed especially in the call to resist the “aristocracy of mere money, of mere industry, of mere mechanical power,” and in particular the legal privileging of trade and industry.¹⁶⁰⁰ However, since the loss of the nobility’s political privileges was in any case accepted — and thus at least indirectly acknowledged — it followed that the nobility formed just one (albeit prominent) part of the new, economically oriented society. Therefore, the opposition to capitalist-industrial economy and culture could no longer be articulated from the standpoint of *societas civilis* but only (objectively, i.e., regardless of the conservatives’ own self-understanding) from the standpoint of a particular interest group. Since the new society was not uniformly capitalist-industrial, those of its sectors that lagged behind in this regard had to defend themselves against the more advanced and dynamic sectors — in which old anti-capitalist tropes were revived once again. But this revival did not seriously call into question the now-complete separation of state and society or the loss of noble privilege — even though every competing segment of society sought to win the favor and support of the state for itself. This duality is evident in a text like the 1867 election platform of the Free Conservative Party. The separation of state and society is here acknowledged in the form of the view that the essence of liberty lies in “a domain of autonomous will and action, supported by law and justice, asserting itself opposite a strong government.” On the other hand, despite an explicit commitment to constitutional rule, the call for a strong government here even includes a rejection of the separation of powers.¹⁶⁰¹ This was, of course, not a novel demand, since — as we know¹⁶⁰² — since 1789, the strengthening of the executive and the additional empowerment of the crown with legislative competencies had been a constant conservative aim in the fight against the sovereignty of a (popularly elected) legislature. Especially under the specific conditions of the actual implementation of the state-society separation in Germany,

¹⁵⁹⁸ 87. *ibid.*, pp. 19, 71

¹⁵⁹⁹ 88. *ibid.*, pp. 77

¹⁶⁰⁰ 89. *ibid.*, pp. 19, 91

¹⁶⁰¹ 90. Mommsen (ed.), *Party Programs*, p. 55. Similarly in the program of the *Prussian People’s Union* (1861), which also includes the demand: “no favoritism and exclusive rule of capital; no surrender of crafts and landed property to the heresies and usurious tricks of the age” (*ibid.*, p. 45).

¹⁶⁰² 91. cf. above, Chapter III, section 3b.

the landowning nobility could confidently expect that, given their extraordinary capacity to influence the government, a strong government would work in their favor; and since the conservatives thus saw themselves as masters of the state, they could say “state” and mean “society” — that is, their own group interest.¹⁶⁰³

This influence of the nobility — or rather, of the landowning class — on the state and government was now only partly a continuation or remnant of the traditional blending of social and political functions that had characterized the *societas civilis*. To a large extent, it had to be won through hard lobbying — and this very fact revealed the transformation of the nobility into one of the antagonistic groups or classes of the new society. Conservative demands were now framed as the demands of one segment of society directed at the state, thereby implicitly admitting that the state was now regarded as an independent instance, capable of fulfilling or denying such demands. And despite the still-significant conservative influence on the German state, it can be shown that the state by no means always and automatically yielded to conservative wishes. For the final third of the 19th century, which is at issue here, one recurring theme in conservative programmatic declarations is telling: the persistent call for the “removal of the privileges of large capital” or the “elimination of the inequalities” that had arisen for landowners, agriculture, and productive labor due to existing legislation.¹⁶⁰⁴ These demands — focused primarily on protecting agricultural interests — had in fact been repeatedly voiced since the 1850s, when the effects of industrial ascendance became more strongly felt. In this respect, it is quite fair to say that there was no abrupt break between the old conservatives and the German Conservatives.¹⁶⁰⁵ Nonetheless, a significant shift in position did occur, precisely along the lines of E. L. von Gerlach’s earlier fears. Although the original readiness to defend agrarian material interests did not wane, the concept of interest was now understood more narrowly, in more capitalist than patrimonial terms. This de facto recognition of the separation between state and society was mirrored again in the fact that landowners’ demands were now largely formulated in the language of the new society. Conservative commonplaces still lingered on — in the circle of *Standesherren* and elsewhere¹⁶⁰⁶ — but they were diluted in party platforms and reduced to just a few items among more or less stereotyped lists of demands. Especially those conservatives who unconditionally followed Bismarck lacked a unified, specifically conservative social policy. They generally supported a strong state, historical continuity, and the protection of agrarian interests, but the ideological foundation became increasingly vague, and the connection between

¹⁶⁰³ 92. So Neumann, *Stages*, pp. 9, 111

¹⁶⁰⁴ 93. Program of the Monarchist-National Party (1872) = Mommsen (ed.), *Party Programs*, p. 63; Founding Call of the German Conservative Party (1876) = *ibid.*, p. 68; *Conservative Handbook* (1892), pp. 225 ff (entry: Conservative).

¹⁶⁰⁵ 94. So Booms, *German Conservative Party*, pp. 10f, 25 ff

¹⁶⁰⁶ 95. Gollwitzer, *Princely Lords*, pp. 208 ff

social demands and worldview loosened accordingly. This was indeed not only a “very moderate,” but also a “very intellectually impoverished and opportunistic conservatism.”¹⁶⁰⁷ Even the conservatives of the *Kreuzzeitung* party, who appeared more independent of Bismarck, were significantly shaped by the turn of the zeitgeist toward so-called *Realpolitik*. They retained from the old conservatives little more than memories, and belonged to a different, more modern human type. Their mode of doing politics was centered on parliament, press, and mass agitation, and it resembled the professional politics of liberalism and social democracy more than the estate-based political habitus of the older generation of landowners — who had represented the conservative cause through their personal presence and activity in their local spheres of influence. Legitimism was practically dead, while ties to agrarian interest representation grew stronger; little remained of the old ideological aura except a pronounced concern with church and school matters.¹⁶⁰⁸

The interest-based politics of the agrarians united in the *Bund der Landwirte* ultimately took a direction that shared only distant and distorted similarities with classical conservatism. Old-school conservatives and aristocratic notables could also be found within the league’s ranks, but they were far from decisive. Plebiscitary tendencies prevailed, and the ideology took on a petty-bourgeois, middle-class character; the estate-based element in the traditional sense receded completely, replaced by the idea of *Volksgemeinschaft* (“people’s community”), which mobilized petty-bourgeois supporters and, in its own way, demanded a democratic and egalitarian mindset. The internal contradictions of the whole movement — which expressed a longing for pre-capitalist conditions while simultaneously making effective use of the most modern political tools and thriving amidst the very hustle of capitalist life — found expression in the ambivalence of its peculiar ideology. On the one hand, we see an *organicism*, which is essentially the only real link to conservatism. It draws from a dislike of industry and “mechanical” urban life, and from a glorification of nature and agriculture. This organic worldview also imports ideas of health and naturalness, the growth and decay of peoples, etc. But this organic naturalism soon gives way to a Darwinist one, and thus the organicist theory of seamless and non-coercive growth is replaced by a structurally opposed theory: the unforgiving struggle for existence — something entirely foreign to classical conservatism. Even the corporative principle, as advocated by the radical agrarians, loses much of its old estate-based character, which was rooted in the fusion of political and economic spheres within the *societas civilis*. Now it is conceived from a vocational perspective, according to the liberal-economic criteria of capitalist society. Finally, the agrarians’ nominal monarchism sat poorly not only with their practical adaptation to constitutionalist rules but also with their deep distrust of the “liberalism” of the court and the

¹⁶⁰⁷ 96. Heffter, *Kreuzzeitung Party*, p. 38

¹⁶⁰⁸ 97. *ibid.*, pp. 43–46

government.¹⁶⁰⁹ This mistrust was a telling sign that the state was no longer a *conservative* state — and for that reason, conservatism itself could no longer be what it once was. As was already observed at the time: the conservative party ought no longer to call itself conservative, since it plainly did not want to conserve a state that was no longer governed according to its own principles. And if, conversely, it demanded the realization of its own principles, then it was calling for a future state — thus ceasing to be a state-preserving party in the proper sense of the term.¹⁶¹⁰

The foreign policy constellation and the accompanying circumstances of the founding of the German Empire contributed, alongside internal socio-political developments, to the collapse of classical conservatism. The increasingly urgent necessity to conduct foreign policy within a Europe striving for national integration—based exclusively on criteria of national power and in terms of *Staatsraison*—exposed the Christian universalism and estate-based, supranational loyalties of classical conservatism as fictions, and served as tangible proof of the practical uselessness of conservative principles in the modern world. It is thus no coincidence that Prussian conservatism repeatedly fractured over basic foreign policy questions after 1848. For its orthodox wing, it was especially painful that the foreign policy it favored, grounded in dynastic legitimacy, led to a pro-Austrian stance that had brought humiliation to Prussia—e.g., at Olmütz or in 1859. This, along with the shared conviction among friends and foes alike that the ideal of a legitimate Christian-estate state was incompatible with the satisfaction of Prussian ambitions within the German sphere—and that loyalty to the former would forever preclude the latter—gradually led some of the most energetic conservatives to become internally estranged from classical conservatism.¹⁶¹¹ The extent of this estrangement became clear when Bismarck's flagrant violation of the dynastic principle of legitimacy through his policy of annexation did *not* provoke a revolt of the entire conservative camp against its wayward son, but instead led to the isolation of the old conservatives around Gerlach.¹⁶¹² That was, of course, tied to the disarming paradox that the author of that violation was not a revolutionary but a scion of the counterrevolution. Yet this paradox itself would have been impossible if classical conservatism had not already driven itself into a dead end in matters of foreign and national politics. The anti-liberal forces thus had to realize the liberal national dreams in their own way, in order to pre-empt liberalism and retain state power for themselves. This, in turn, created confusion over the very meanings of "liberal" and "conservative," of "progress" and "reaction."¹⁶¹³ Many conservatives

¹⁶⁰⁹ 98. On the ideology of the Agrarians, see Puhle, *Agrarian Interest Politics*, esp. pp. 78 ff, 85 ff, 89 ff, 103 ff, 278 ff

¹⁶¹⁰ 99. Stillich, *The Conservatives*, pp. 28 ff, 46, 48

¹⁶¹¹ 100. Ritter, *The Prussian Conservatives*, pp. 136, 54 ff, 784

¹⁶¹² 101. On these events, see *ibid.*, p. 184 ff

¹⁶¹³ 102. Kondylis, *Reaction – Restoration*, pp. 224–228

found a kind of psychological relief by simply suppressing the question of principle—fascinated as they were by Bismarck's practical success and the future prospects opened up for Germany—and became his followers.¹⁶¹⁴ Out of fear that the remnants of aristocratic autonomy would be abruptly swept away in a bureaucratically centralized Reich, they often voiced concern over the too-rapid dismantling of old structures. Thus, the German Conservatives, despite their loyalty to Bismarck and fundamental recognition of the Reich, tried to preserve Prussian independence and distinctiveness as much as possible: they supported federalist concepts and resisted electoral reforms that would strengthen the role of parliament (as a matter of Reich concern); at the same time, they clung—again, as far as possible—to a dynastic conception of the nation, particularly since this matched the multiethnic composition of Prussia.¹⁶¹⁵ But all of this played out on the margins, or in the shadow, of Bismarck's priorities and did not in any way constitute the seed of a conservative new beginning; it was more akin to a series of minor rearguard skirmishes. And even if the estate-colored federalist idea survived, after the founding of the Reich it was clear to all that a Gerlach-style "attitude toward other countries determined by internal political commitment" was no longer tenable.¹⁶¹⁶ This reconciliation with the idea of empire and the logic of power in foreign policy went hand-in-hand, of course, with the transformation of the conservative party into a modernized agrarian interest party.¹⁶¹⁷

From the perspective of our specific question, it must be noted that conservatives did not merely reconcile themselves with the nation-state and the realities of modern power politics under the pressure of events, but also developed rationalizations in the process—rationalizations that gradually crystallized into new ideologemes, thereby easing the distancing from classical conservatism. Thus, conservatives who, contrary to Gerlach's warnings, had supported the war against Austria, by no means felt they were betraying their own cause; on the contrary, they were often convinced that in doing so they were serving their king, their fatherland, and their own honor.¹⁶¹⁸ In the measure that socio-political developments rendered an estate-based aristocratic policy in the old conservative sense impossible—while opportunities for advancement offered by state service weakened individual nobles' solidarity with their class interests—¹⁶¹⁹ such slogans and platitudes increasingly replaced the specifically conservative ideology. These were not new in themselves, but whereas earlier they drew their conservative meaning from the overarching ideological framework in which they were

¹⁶¹⁴ 103. So also many princely lords, see Gollwitzer, *Princely Lords*, pp. 242 ff

¹⁶¹⁵ 104. Booms, *German Conservative Party*, pp. 334, 79 ff, 89 f, 97 ff

¹⁶¹⁶ 105. So Westarp, *Conservative Politics*, vol. I, p. 153

¹⁶¹⁷ 106. Ritter, *The Prussian Conservatives*, p. 376

¹⁶¹⁸ 107. cf. *ibid.*, pp. 162 ff

¹⁶¹⁹ 108. So also among the princely lords, see Gollwitzer, *Princely Lords*, p. 213

embedded, now they became autonomous, forming a kind of standalone value system that presented itself as conservatism *tout court*. Alongside loyalty to the king, love of the fatherland, honor, and fulfillment of duty, Christian and chivalric sentiment now also counted as hallmarks of a properly conservative disposition. In combination with refined and self-assured manners, this mindset was meant to distinguish aristocrats and conservatives in general from the liberal, freethinking, or republican bourgeoisie. Although the Junker had long since transformed from a landed lord into a manager of an agricultural enterprise, he continued to associate with his self-image a disdain for commerce, finance, and the mentality of a high-capitalist society, relishing his role as a professional defender of the aforementioned conservative virtues.¹⁶²⁰ There were two groups in the bourgeoisie that this aristocracy especially regarded as enemies: the newly rich “parasites,” whose wealth he “refused to be impressed by,” and the “intellectuals,” who “exalted themselves far too much above the uneducated.”¹⁶²¹ But by now this struggle had largely degenerated into shadow-boxing—a matter of empty pose and prestige. No one seriously contested the principle of legal equality, and the prevailing tone became increasingly pragmatic. Through civil service posts and, more generally, through urban lifestyles and education, there occurred a “significant bourgeoisification of large segments of the nobility.”¹⁶²² Contributing to this was the lack of separate schools for the nobility and their increasing orientation toward the natural sciences and technology.¹⁶²³ The secularization of the late-aristocratic worldview was further accelerated by the spread of then-fashionable pan-European theories, such as Social Darwinism, biologism, or racism—ideas that were alien, even antithetical, to classical conservatism. And if we also consider the readiness of broad swathes of the bourgeoisie to identify with the new conservative values—from loyalty to the king to Christian conviction—then it becomes clear that the conditions for the downfall of conservatism, through the loss of all its specific traits, were in place. This also coincided with the extinction of noble lineages, which, however, must be understood socially rather than biologically.¹⁶²⁴

d. The Dissolution of Conservatism into Liberalism in View of the Socialist Threat

The conservatives—or rather, those who still call themselves such—have, since the final decades of the 19th century, found themselves increasingly compelled to form an alliance with (the right wing of) liberalism against the growing socialist threat.

¹⁶²⁰ 109. Stolberg-Wernigerode, *The Undecided Generation*, p. 179

¹⁶²¹ 110. Conservative Handbook (1892), p. 8 (entry: Nobility)

¹⁶²² 111. So Tönnies, *Nobility*, p. 104 ff

¹⁶²³ 112. Stolberg-Wernigerode, *The Undecided Generation*, pp. 180 ff, 201 f

¹⁶²⁴ 113. Savorgnan, *Extinction*, pp. 320, 334 ff

Thus, the dream of those who, since the democratic-communist tendencies revealed during the French Revolution, had wished for a united front of all property owners, is finally realized.¹⁶²⁵ But this front now takes shape under fundamentally different circumstances—not under the aegis of a socially and economically still-dominant nobility, but after that nobility, following the accomplished separation of state and society, has lost its political privileges and become merely one component of the new society. The property to be defended against social democracy is bourgeois in nature, a marketable commodity stripped of patrimonial aspects, and it is precisely this homogeneity within a highly capitalist society that ultimately enables the unification of property owners. On the ideological plane, rapprochement occurs again in that liberalism, in its increasingly sharp differentiation from democracy, recalls its original clauses of inequality and adopts certain social-Darwinist motifs (natural inequality, natural selection of the elite)—motifs to which many conservatives also now subscribe, having distanced themselves from the worldview of classical conservatism and the legal understanding of the *societas civilis*—in short, after a far-reaching secularization of their thought. Thus, they meet halfway—but on the terrain of the new capitalist society. In place of the literature of classical conservatism, which had dominated the counter-revolutionary scene in the first half of the 19th century, we now find works whose main polemical target is mass-democratic phenomena, and which elaborate the shared ideological denominator of (formerly) conservatism and (newly revived) old liberalism in a thoroughly secularized language and mode of thought. Symbolic of this changing of the guard, so to speak, is the fact that the first classic of the genre, namely Tocqueville, came from France—that country where classical conservatism first met its end.

As previously mentioned, during the second half of the 19th century, Renan, Taine, and others in France, as well as the so-called Victorian critics of democracy in England, followed Tocqueville's path—with greater or lesser deviations.¹⁶²⁶ In England, the novel amalgam of conservatism and liberalism had to assume a paradigmatic form—and one that proved exemplary for likeminded thinkers on the Continent—because it arose from the *bourgeoisification* and liberalization of a conservatism that, at a particular historical moment, came to perceive in liberal radicalism and mass democracy its principal enemy. This concept found clear articulation in the writings of a politician who also sought to implement it practically through his work in government: Lord Salisbury. The leitmotifs that govern his thinking delineate the ideological framework of the ongoing fusion of conservatism and liberalism with considerable precision: rejection of egalitarianism and the mass-democratic "tyranny of the majority"; glorification of the struggle between individuals and groups as an eternal law of nature; belief in the social necessity of a natural elite standing above the fluctuating moods of the masses;

¹⁶²⁵ 114. See above, Chapter II, Section 5a.

¹⁶²⁶ 115. See above, Chapter I, Section 2.

defense of property—both *landed interest* and *monied interest*—against state socialism.¹⁶²⁷ Characteristic of this new conservatism's style of thought is Salisbury's aversion to all metaphysics (both revolutionary and the "German" metaphysics introduced in England by Coleridge and Carlyle), his utilitarian orientation, and a pragmatic relativism in questions of value, which in practice amounts to tolerance and a disdain for all fanaticism. The question of progress and social transformation, now posed daily, is likewise treated pragmatically—that is, as a matter for negotiation.¹⁶²⁸ Salisbury proceeds from the premise that the emergence of a strong and multifaceted democratic movement is the defining feature of the age—a movement whose influence changes the function of existing institutions even if they remain outwardly intact.¹⁶²⁹ In the course of this massive democratic surge, something else happens that remains central to Salisbury's political thought and strategy: liberalism splits into "Radicals" and "Whigs" (or "moderate liberals"), that is, into one wing that pursues legal and property equality at all costs, as well as progress heedless of its final goal, and another wing that resists egalitarian tendencies and progress into the unknown.¹⁶³⁰

Salisbury undertakes a striking sociological and historical analysis of the development of the bourgeoisie and liberalism in order to demonstrate the contemporary necessity of an alliance between the "moderate Liberals" and their former conservative rivals. Until 1848, he writes, the working class and the bourgeoisie had been allies against "Church, Court, and Manors." The spoils of this partnership, however, were unevenly distributed: "the middle classes obtained the solid results of favourable legislation; the workmen had the satisfaction of suffering for Liberal principles." The year 1848 brought the previously latent conflict of interest to light and swung the bourgeoisie over to the side of their former enemies—precisely at the moment those enemies had been defeated. Hence, the old divisions and classifications became obsolete and misleading: "The old frontiers separate those who in opinion are not divided, and classify under one name men who have now no principle in common." For both "Radicals" and "Moderates" continue to call themselves Liberals, even though the principal dividing line now no longer runs between conservatism and liberalism, but between radical liberalism and social democracy on the one hand, and moderate

¹⁶²⁷ 116. See the good summary by P. Smith in his introduction to the volume *Lord Salisbury on Politics*, esp. pp. 26–35.

¹⁶²⁸ 117. Pinto-Duschinski, *Political Thought*, esp. pp. 59 ff., 74, 92, 95 f.

¹⁶²⁹ 118. "Our Government was called a Parliamentary Government a century ago, as it is now.

But the control of the machine was largely shared by the Crown and the aristocracy. Now it is entirely in the hands of democracy. It is impossible to express in words a wider difference,"

Disintegration (1883) = *On Politics*, p. 346.

¹⁶³⁰ 119. *Ibid.*, pp. 353, 355.

liberalism and conservatism on the other. The “Moderates,” to be sure, are still forced by their own nominal principles to go along with progressive reform policy; but they do so reluctantly, half-heartedly, and only sporadically, while the “Radicals” aim at the leveling of all distinctions and inequalities, which inevitably leads to an “assault on property.” Thus the hour of final decision for the “Moderates” has struck.¹⁶³¹ They should be guided by the insight Salisbury formulated in 1862: “The struggle for power in our day lies not between Crown and people, or between a caste of nobles and a bourgeoisie, but between the classes who have property and the classes who have none.”¹⁶³² The chief task of government is the protection of property, and therefore the propertyless should not, in fact, determine government policy through universal suffrage; for then taxation becomes “an instrument of plunder,” and the power of the state serves “to plunder the well-to-do classes for the benefit of the poor.” The traces of conservative paternalism in Salisbury do not alter the fundamentally individualist character of his stance; the welfare of the poor is, in his view, not a task of the state. Hence, the prospects for rapprochement between the Tories and the working class under the concept of Tory Democracy are judged to be rather dim.¹⁶³³

The alliance—or rather interweaving—of conservatism with a bourgeoisie that, while fearing progress in the sense of a march toward socialism, could not detach itself from the idea of progress as technological development, increased productivity, and rationalization, nor from its economic mindset, had two further key effects on the *content* and *style* of the new liberal conservatism or conservative liberalism (call it what you like): The previously attempted definition of conservatism from the standpoint of progress becomes increasingly common. Economic policy questions—especially the problem of state–economy relations—move ever more to the foreground. A conservative like Cecile, intellectually aligned with Salisbury, centers his thinking here. For Cecile, conservatism is not sterile attachment to the old, but the right blend of preservation and renewal. Peaceful change is acknowledged as necessary—what he warns against are the catastrophic effects of *unchecked* progress. This vision of social equilibrium is supported by a now-popular anthropological assumption: human nature contains both conservative and progressive tendencies that ought to balance each other.¹⁶³⁴ At the same time, Cecile implicitly admits that conservatism is a historically contingent phenomenon: “It arose to resist Jacobinism, and that is to this day its most essential and fundamental characteristic.”¹⁶³⁵ By framing modern socialism as merely a continuation of Jacobinism, Cecile equates the enemies of Jacobinism

¹⁶³¹ 120. *The Programme of the Radicals* (1873) = *On Politics*, pp. 304 ff., 307, 309, 327.

¹⁶³² 121. Quoted by P. Smith, *ibid.* (note 116), p. 26.

¹⁶³³ 122. *Ibid.*, pp. 33, 45, 49 ff.; cf. O'Sullivan, *Conservatism*, pp. 106 ff.

¹⁶³⁴ 123. *Conservatism*, pp. 18, 14, 9 ff.

¹⁶³⁵ 124. *Ibid.*, p. 249.

past with the enemies of socialism present—thus giving the current anti-socialist coalition of property-owners a historical depth and legitimacy. But in doing so, he overlooks the important fact that the classical representatives of conservatism opposed Jacobinism from the standpoint of the legal conception of *societas civilis*, and did not see it as an enemy, but rather as a sibling of liberalism and capitalism—whereas the modern opponents of socialism do precisely the opposite. As an opponent of socialism, which he is, Cecile also forgets the strongly interventionist national-economic views of classical conservatism and opposes with all emphasis any state intervention in the economy that would have to restrict property rights and promote egalitarian tendencies. It is this reformist zeal of liberalism, leading to dirigisme and thus to unfreedom, which, according to Cecile, distinguishes it from conservatism—not so much its general principles of liberty.¹⁶³⁶ It is above all the welfare state that acts in an egalitarian manner, in which social assistance is not regarded as *national charity*, *national gratitude*, or a *matter of expediency*, but as a right of the individual and a duty of the community; the state must and may intervene regulatively, but only on the condition that the inviolability of property is fully preserved.¹⁶³⁷

Since Cecile, English conservatism has primarily been presented as *the* great alternative to socialism—where *socialism* was taken to include any expansion of the welfare state, even when initiated by the Liberal Party. The rise of the Labour Party made the socialist enemy politically tangible, such that defending positions that were in fact liberal no longer had to target a party calling itself liberal. Early experiences with Labour governments prompted detailed articulations of “conservative” social and economic policy, whose principles increasingly formed the core of conservative doctrine as such. Topics like government spending, national debt, the welfare state (esp. the “*demoralisation caused by indiscriminate charity*”), unemployment benefits, the tyranny of trade union bosses, etc., all came under scrutiny—while at the same time radical liberalism (e.g. that of Lloyd George) was accused of flirting with bureaucratic socialism.¹⁶³⁸ The worldview behind these socio-economic principles feels banal and faded. It often rests on the claim of two supposedly natural tendencies—the *conservative* and the *progressive*—which must be reconciled without excess. Conservatism’s contribution to this harmony of “order and change” is said to be: reverence for the past, religious-moral grounding of state authority and civic duties, preservation of constitutional continuity, etc.¹⁶³⁹ From the fusion of moral-religious conviction and economic liberalism—common among certain British conservatives in the early 20th century—emerges, *mutatis mutandis*, the same schema later promoted by the

¹⁶³⁶ 125. Ibid., p. 247.

¹⁶³⁷ 126. Ibid., pp. 179 ff., 195 f.

¹⁶³⁸ 127. See e.g. Hearnshaw, *Conservatism*, esp. pp. 1 ff., 285 ff., 290 f., 306.

¹⁶³⁹ 128. Ibid., pp. 13 ff., 226 f.

so-called *neoliberal* tendency.

What now concerns economic liberalism in particular is well known: the advocates of the *laissez-faire* principle within the Conservative Party have, since Peel's time, faced a strong interventionist-paternalist current.¹⁶⁴⁰ The reason for the continued presence and effect of the latter lay partly in the still-existing need for an ideological distancing from the Liberal Party—although conservatives generally accused the Liberals more of reformist zeal than of clinging to the *laissez-faire* principle. On the level of propaganda, the glorification of the alleged paternalist tradition of the Conservative Party served to demonstrate that the Conservatives did not actually lag behind the (radical) Liberals even in *social* terms—and under universal suffrage, that demonstration was not useless. In reality, the great majority of Conservatives remembered the party's paternalism when it came to minor concessions, whereas they rejected, for example, the old-age pensions proposed by Lloyd George, invoking virtues like the individual's personal responsibility, familial solidarity, or thrift, as superfluous or morally damaging.¹⁶⁴¹ To the ideological function of paternalism was added a quite practical one. Paternalism was reinterpreted and repurposed as an interventionism that would ultimately benefit the (industrial) bourgeoisie. It has often happened that, invoking the legend of Disraeli as the friend of the workers and the original opposition of conservatism to liberal *laissez-faire*, plans were drawn up for regulating *industrial relations*. According to these, capital, management, and labour should cooperate within a *triple alliance*, with all partners sharing in profits and losses, while the state would intervene to end the anarchy through a *system of industrial law with compulsory conciliation courts*—though (and this limitation is telling) such intervention should not be socialist-bureaucratic in character and industry should not be taxed too heavily.¹⁶⁴² Despite the free recourse to that distant time when conservatism fought against the liberal bourgeoisie, such projects contain not the slightest polemical edge against the modern bourgeois class. Rather, they are better understood as attempts to assist that class in circumstances where it can no longer manage without the aid of the now-overpowering state. The state is thus tasked with stabilizing *industrial relations* and the market, where such stabilization, it seems, can no longer be achieved by the entrepreneurs' own strength and on their own terms; that they must sacrifice something in the process is the inevitable price. Likewise, the demand for a protectionist trade policy¹⁶⁴³ is in no way aimed against the bourgeoisie—a demand which, moreover, has nothing fundamentally to do with either liberalism or conservatism as such, but has, despite all ex post theorizing and

¹⁶⁴⁰ 129. See on the two tendencies and their best-known ideologues: Greenleaf, *Modern British Conservatism*, pp. 184 ff., 194 ff

¹⁶⁴¹ 130. See also McDowell, *British Conservatism*, pp. 145 ff.

¹⁶⁴² 131. See e.g. Bryant, *Spirit of Conservatism*, pp. 19 ff., 91 f., 98.

¹⁶⁴³ 132. *Ibid.*, p. 126

rationalizing, been raised at various times by liberals and conservatives, agrarians and industrialists alike, based on considerations of expediency;¹⁶⁴⁴ accordingly, its concrete meaning has changed over time.

It is impossible to discuss the German development regarding the process of fusion between conservatism and liberalism on the basis of capitalist society without correcting a few common prejudices and misconceptions. These are essentially an adoption and theorization of interpretations about the character and course of German history—constructions shaped and propagated by the victors of the two World Wars with polemical-ideological intent. After the 1918 defeat, in a Germany that had still largely preserved its independence and national strength, a spiteful anti-Western ideology emerged as a form of resistance and compensation. Conversely, in the Germany that, after 1945, had lost its sovereignty and self-confidence, an ideology of reverent worship of “Western democracy” spread—essentially a penitential confession of guilt for the sins committed, allegedly born more or less necessarily from the *German Sonderweg* (special path). The core thesis of this ideology is that Germany never had a genuine liberalism, or that liberalism never fully realized its aims but instead came to terms with the forces of *Reaktion* (reaction), which thereby retained the upper hand and—through an alliance with the industrial *Großbürgertum* (upper bourgeoisie)—were able to pursue an aggressive policy with disastrous consequences. The rapprochement between the *Adel* (nobility) or *Junkertum* (landed gentry) and the *Bürgertum* (bourgeoisie) is thus acknowledged, but not understood as a partnership within the framework of capitalist social order. Rather, it is interpreted as a capitulation of the latter to the former. Two assumptions are implied here that are directly relevant to our line of inquiry: First, conservatism is identified with *Reaktion*—a catch-all for all or at least the leading chauvinist, militarist, imperialist forces, including the crown and state apparatus. Thus, the concept of conservatism loses historical precision, and it is no longer shown how this or that policy arose from conservatism in its specific sense; instead, certain (usually the most “aggressive”) features of a policy are used to retroactively classify its agents as conservative. Second, such politics can, under no circumstances, have anything in common with bourgeois liberalism, because liberalism (just like conservatism, though with opposite value connotations) is judged not as a concrete historical entity but from general moral standpoints. The (real or alleged) submission of liberalism to the “conservative authoritarian state” is lamented precisely because it is assumed that “true” liberalism is inherently humanitarian and “progressive”—indeed, that it must be intrinsically ready to evolve at any moment into the most humane form of social

¹⁶⁴⁴ 133. Around 1850, when the industrial bourgeoisie in Germany demanded protective tariffs to support national industry, the conservative agrarians, for polemical reasons, rejected this and even described free trade as a “consequence of the Christian religion” or as “worship” (*Kreuzzeitung*, 1850, nos. 146 and 211, quoted in Stillich, *The Conservatives*, p. 132 ff.; cf. Herberger, *Position*, pp. 52 ff.). As is well known, the situation later changed radically.

democracy. But from such a normatively understood liberalism, no militarist-expansionist policy would ever be expected; had liberalism prevailed in Germany in pure form across the board, the country would supposedly have distinguished itself by its peacefulness. Yet the question remains unanswered why countries like France or England—held up as models of liberal parliamentarism—emerged precisely during the consolidation of their “liberal” constitutions as the greatest imperialist powers. There is a complete abstraction here from the diplomatic, strategic, and geopolitical constraints that weigh on any state regardless of its constitution and compel both “progressives” and “reactionaries” alike to pursue certain political actions. It is highly unlikely that a liberal-parliamentary but equally economically strong Germany would have avoided conflict with England and France. Conversely, the First World War was caused by states with very different internal political structures—so any one-dimensional explanation based solely on domestic factors must be rejected.

The accusers of the *German Sonderweg* not only moralize but also typify the concept of liberalism—though it's admittedly easy to demonstrate that the ideal type of liberalism was not realized in Germany. However, they fail to state in which 19th-century European country such an ideal and ideal-typical liberalism ever existed, or whether such typification is even valid given the significant differences from country to country. A typification of liberalism (or conservatism or socialism) can only be carried out on the basis of certain ideological core motives, but in historical reality, we encounter only concrete interpretations of these core motives, each bound to particular situations and patterns of action—in other words, we encounter only “*Sonderwege*.” The radically different social developments in the model countries of liberalism and parliamentarism (England, France, and the USA) prove this beyond doubt. As a class striving to achieve concrete, vital objectives under concrete circumstances, the *Bürgertum* (bourgeoisie) no more felt obligated to realize ideal types—constructed by moralizing historians or even its own ideologues—than any other social class. Rather, it always acted within the bounds of what was possible and expedient at the time. Even questions of parliamentarism and “freedoms” were dealt with according to this bourgeois pragmatism—not to mention universal and equal suffrage. Therefore, if we want to properly analyze how the rapprochement between conservatism and liberalism in Germany occurred around the turn of the century, we must keep our eye on *German* liberalism and dismiss from the outset the assumption that this rapprochement must have borne the mark of conservatism simply because Germany's constitution wasn't fully parliamentary, or because the *Dreiklassenwahlrecht* (three-class voting system) remained in place, or because the dominant ideology wasn't humanistic enough, etc. Beyond the fact that this assumption is based on an imprecise concept of conservatism, it also rests on false historical analogies and conceptual confusion. Let us now briefly examine this, before outlining the German version of the unification of all property-owning classes against the socialist threat.

A key feature of the German *Sonderweg* is considered to be the absence of parliamentarization, namely the fact that the country was governed constitutionally and on the basis of the so-called monarchical principle, but not (exclusively) according to the will of a parliament elected by a sovereign people. Yet in England too, the Crown was not de facto disempowered by the rising industrial bourgeoisie, but by a noble oligarchy, while the role of the middle classes in the 19th century consisted in radically transforming and repurposing the already sovereign parliament—without having to confront the now-defunct monarchy anew. Conversely, the development in France—where the disempowerment of the Crown in 1789 and 1830 had primarily benefited the bourgeoisie—did not lead to a full and irreversible parliamentarization, but rather the country spent barely twenty of the first seventy years of the 19th century under a (strictly speaking oligarchic) bourgeois-parliamentary government, and spent about half of that period under a Caesarist regime, which was ended not by the actions of a liberty-loving bourgeoisie but by foreign policy developments that cleared the path for modern parliamentarism. In both cases—though in very different ways—there was no direct link between the process of modern parliamentarization and the disempowerment of the monarchy, although, historically speaking, the latter is a prerequisite for the former. From this asymmetry it follows that the bourgeoisification of society and the victory of capitalist conditions in the economy, which primarily concerned the bourgeoisie, did not necessarily have to proceed through a victorious conflict with the monarchy and a parliamentarization—and not only in the liberal but also in the liberal-democratic sense: several variations and combinations are conceivable. To these relativizing considerations we may add that the German constitutionalism under the sign of the monarchical principle did not, even under the temperamental Wilhelm II, degenerate into a “personal regime,”¹⁶⁴⁵ but on the contrary contained significant modern parliamentary elements in practice. It should thus not be seen as a self-contained phenomenon, but rather as a transitional stage from monarchical to parliamentary rule.¹⁶⁴⁶ Any demonization of the *Kaiserreich* becomes unnecessary when we recall the basic rule of law and bourgeois liberty that prevailed—conditions that hardly lagged behind what England or France offered at the time—and which, especially after 1890, enabled the rise and wide-reaching social influence of the most massive, disciplined, and intellectually ambitious democratic movement Europe had known: the old German Social Democracy. From the standpoint of today’s Western parliamentary mass-democratic reality, it’s of course easy to criticize many aspects of that era. But if one points, for example, to the discrepancy in the *Kaiserreich* between electoral district boundaries and population distribution, which favored the conservative agrarians, then one should also mention that applying the British electoral system in Germany at the time

¹⁶⁴⁵ 134. Huber, *The Personal Regime*.

¹⁶⁴⁶ 135. Böckenförde, *Constitutional Type*.

would have deprived many Social Democratic representatives of their seats.

This constitutional reality of the *Kaiserreich* corresponded to the socio-political fact of the far-reaching separation between state and society, such that an identification of the monarchy as the bearer of statehood with the conservatives, who had by then become just one interest group among others, cannot simply be made. In making this identification, one overlooks that the strong position of the monarchy in Germany around 1900 was due to the actual achievements of the Reich founding era, and should not necessarily be interpreted as a sign of the undiminished power of the "reaction"—unless one anachronistically defines reaction as everything that deviates from the ideal type of humanitarian liberalism or socialism. It is undisputed that the conservatives still had very good, or at times the best, access to the monarch, and that they hoped—especially after the abolition of patrimonial rights and the introduction of legal equality—to defend their social and political interests through a strong monarchy. But it is equally true that the crown did not unconditionally align itself with the expectations and demands of the agrarians, but instead kept the door open both to the industrial bourgeoisie and to prominent representatives of the educated bourgeoisie. The often-demonstrated solidarity of the bourgeoisie with the monarchy therefore did not necessarily arise from submissiveness, as is sometimes suggested; the monarchy played, more or less successfully, its integrative role, at least with respect to the upper social strata—even if this occurred under conditions that some modern historians may find unpalatable. Ultimately, no talk of "conservative reaction" can undo the fact that German capitalism under the *Kaiserreich* was able to fully develop its productive forces and surpass other countries that had advanced further in terms of parliamentarization. On the eve of World War I, Germany was the second-largest industrial power in the world—clear proof that its socio-political system at the time was by no means conservative in the specific sense of the term, even if certain value judgments might label it reactionary.

Historians who wish to associate parliamentarism and liberalism not only with ideological rhetoric but also with the realization of certain humanistic values understandably tend to hold the view that an (by definition "immoral") imperialist foreign policy would be incompatible with parliamentarization and liberalization at home; expansionist projects or efforts like naval armament are thus seen as expressions and confirmations of a "reactionary" domestic policy. The English and French developments, however, teach us otherwise, and on the basis of these historical experiences, it is to be assumed that a large-scale, successful, and long-term colonial enterprise—¹⁶⁴⁷under the specific conditions of the *Kaiserreich*—would primarily benefit the bourgeoisie (including the middle and petty bourgeoisie), strengthen its internal political position, and significantly ease the absorption of the old carriers of conservatism into the forces of finance,

¹⁶⁴⁷ 136. "The German navy is an old liberal demand," noted Naumann rightly (*Democracy*, p. 212; cf. p. 138: "...since the navy and expansionist policy are deeply anti-agrarian").

industry, and commerce. Max Weber demanded parliamentarization so that the Germans could pursue world politics as a nation of rulers; the reverse, however, is equally plausible based on existing historical analogies. In fact, the very circumstance that Germany was excluded under humiliating conditions from the circle of imperialist world powers in 1918 ultimately barred its path to a liberal-parliamentary democracy. It was only in conjunction with the feeling of an undeserved national humiliation that the economic crisis—alongside other factors—undermined the Weimar Republic from the start and allowed National Socialism to become the strongest political force. It is, of course, easy to claim *ex post*, with the full scale of the German catastrophe in view, that Germany would have been best off staying out of imperialist competition, keeping its airy empire to itself and leaving land and sea to the French and English. But historical processes have their own momentum, and it is hardly understandable how Europe's most populous and productive nation could have avoided this dynamic. Germany was indeed the belated nation, if by that we mean it asserted imperial claims only at a point when the planet had already been divided up by its liberal-parliamentary neighbors.

These remarks aim to clarify that the rapprochement between German conservatism and parts of German liberalism did not stem from the "reactionary" nature of the *Kaiserreich*, nor was it necessarily marked by "reaction." It must be emphasized again that the German bourgeoisie was politically conciliatory (also) because this rapprochement occurred on the basis of capitalist society, and thus its energy and initiative faced practically few obstacles. Naturally, the alliance of agrarian and industrial interests opposed the growing socialist threat—this was no different in England or France—and in that sense, the German Kaiser fulfilled his class-integrative function even when railing against the "fatherlandless rabble." Many sharp observers of the *Kaiserreich*'s social scene noted that, within the new capitalist society, the new opposition between rich and poor had overshadowed the old struggle between nobility and bourgeoisie. Tönnies, for instance, pointed to factors that hindered the full bourgeoisification of the nobility (support for fideicommissa, the strengthening of the military spirit through victorious wars),¹⁶⁴⁸ but for him, the more decisive fact was that "business had moved to the foreground of interests even for the nobility," and that birth or land aristocracy had now become "mere forms of plutocracy." This led to the fusion of landownership and capital: "They silently agree that their own rivalry, however intense or bitter, is somehow normal and historically legitimate, while the claims of the lower classes must be repelled under all circumstances."¹⁶⁴⁹ That rivalry had already been overcome within the Conservative Party, where, as Westarp recalled, "Junker pride" and "bourgeois pride" could coexist.¹⁶⁵⁰ Already in the early 1890s, the

¹⁶⁴⁸ 137. *Nobility*, pp. 1053, 1058.

¹⁶⁴⁹ 138. *Ibid.*, pp. 1051, 1052, 1045.

¹⁶⁵⁰ 139. *Conservative Politics*, vol. I, p. 36.

Conservatives had officially declared their readiness “to oppose unjustified demands of the working class... which endanger the social order and the survival of both agriculture and industry,” to “preserve the courage of their convictions even downward,” and to forego competing with other parties in cheap popularity at the expense of political conscience.¹⁶⁵¹ This readiness found a counterpart among the industrial bourgeoisie—especially the big bourgeoisie, which in any case sought to feudalize its lifestyle—in its desire for allies against the labor movement and the (seemingly) dangerous beginnings of more extensive social policy. The relationship of industry to the Conservatives was, of course, never free of tensions—well-known for their economic causes—and accordingly, the majority of large industrial interests remained with the National Liberal Party, where they formed the right wing that always sought understanding with the Conservatives. Less enthusiastic about an alliance with the Conservatives were other parts of the bourgeoisie, for their own specific reasons (recall the League of Industrialists or the Hansabund), who were therefore more inclined to adopt the cause of parliamentarization.¹⁶⁵²

That it was not the German bourgeoisie standing on the ground of “feudal reaction,” but rather German conservatism—or the social-political current still calling itself that—standing on the ground of an already capitalist society engaged in struggle against socialism, became especially clear during the Weimar era. Isolated conservatives like Röder, who longed for the lost agrarian idyll, blamed the ills now fallen upon Germany on heavy industry and its associated militaristic megalomania, and demanded a complete break between conservatism and the industrial bourgeoisie,¹⁶⁵³ were now quaint figures, and no one took them seriously. The central concern was rather how to form the front of all property owners on the basis of existing economic conditions. The modern concept of elite came to the fore and completely displaced the traditional concept of estate. The leading upper stratum that every society needs, writes Mayer, must now be composed of nobles, industrialists, civil servants, merchants, and landowners; inheritance law should ensure the continuity of this stratum, but at the same time, “fresh blood from other strata” must flow in through the educational system. The old antagonism between nobility and bourgeoisie, which had had harmful effects, could in this way be overcome, and a unified upper class, like that of France, could emerge in Germany—one that had successfully defended itself “against the poison of socialism and pacifism.”¹⁶⁵⁴ Also characteristic of the time and this tendency are voices blaming the recent revolutionary victories on the failings and errors of liberalism, while simultaneously calling for a conservatism that defends and

¹⁶⁵¹ 140. Conservative Handbook (1892), p. 24 (entry: Worker).

¹⁶⁵² 141. Nipperdey, *Interest Groups*, pp. 381–3, 385.

¹⁶⁵³ 142. The German Conservatism, esp. pp. 43 ff., 100, 121.

¹⁶⁵⁴ 143. On Nobility, esp. pp. 15, 22, 23, 13.

adopts the core values of that same liberalism—against its revolutionary reinterpretation. Von Freytagh-Loringhoven, for example, argues as follows: Conservatism emerged in opposition to liberal individualism and the atomization of society, and therefore could sympathize with workers' demands insofar as they opposed such atomization. But the situation changed fundamentally when social democracy aligned itself with a left-liberalism that abandoned the anti-collectivist roots of liberalism. If liberalism betrays its own banner, then conservatism must step in to defend the "interests of the individual"—specifically property and inheritance. This new situation "required a reconfiguration of conservatism's alliances," even if it didn't alter its historical physiognomy: for, von Freytagh-Loringhoven claims, conservatism's essential character had always been defined by its opposition to the ideas of the French Revolution, and in any case, its thought had "always included recognition of the rights of the individual."¹⁶⁵⁵

The programs of the right-wing parties during the Weimar era reflect in various ways the fact that, by the time parliamentary democracy was introduced and in the face of the recently overcome revolutionary threat, the opposition between conservatism and liberalism had been largely overcome, since the central socio-political question had now shifted to a different level. Nevertheless, the reconciliation of "conservative" and "liberal" within the ideology of the Right appeared somewhat forced and internally conflicted. For example, the German National People's Party (DNVP) officially advocated a "free economic order," accepted equal, direct, and universal suffrage as well as the sovereignty of the parliament emerging from it, and even called for women's equality. On the other hand, they emphasized the "organic conception of the state" and desired, alongside the parliament, a form of representation based on the occupational structure of economic and intellectual life. They also demanded a religious and moral foundation for social life and a strong state—positions which, at that historical moment, were not necessarily anti-liberal.¹⁶⁵⁶ This tension in Weimar Right-wing ideology is also evident in its *völkisch* coloring and in the attempt to assert the principle of authority through the role of the Reich President, even while formally accepting the constitution, effectively trying to exclude the legislature from government formation while otherwise leaving it untouched.¹⁶⁵⁷ Although the looming threat of "collectivism" drove the Right to defend the "dignity of the person" and forced liberalism to distance itself from mass democracy, the already objectively completed fusion of conservatism and liberalism still lacked a coherent and homogeneous ideological foundation.¹⁶⁵⁸ The reason for this, however, was not

¹⁶⁵⁵ 144. System of Thought, pp. 10–16.

¹⁶⁵⁶ 145. Mommsen (ed.), *Party Programs*, pp. 536–540.

¹⁶⁵⁷ 146. Jonas, *People's Conservatism*, pp. 13, 116.

¹⁶⁵⁸ 147. As Jonas (*ibid.*, p. 15) puts it very well: "But ideology did not always adapt to the party-political and sociological reshuffling process and led a contradictory life of its own: an imaginary realm of mere concepts that had a toxic effect on political discourse."

that the agrarians clung to their old anti-bourgeois tropes at any cost, but rather the opposite: that parts of the bourgeoisie believed they had to shift to the right and considered partially sacrificing political liberalism in order to preserve economic liberalism. This had nothing to do with a conservative mindset in the specific sense of the term, but instead resulted from the effort to manage a situation that could become existentially dangerous for the bourgeoisie itself. The solidarity of those who saw themselves as heirs of old conservatism and now made up part of the Right with the (right-wing) bourgeoisie does not prove that they ideologically or socially guided this segment of the bourgeoisie, but only that they felt irrevocably bound to it—that they had identified their own fate with that of capitalism as a whole. And when the bourgeoisie, in its turn to the right, adopted *völkisch* or authoritarian ideas, this did not express a desire to restore the former social reality once cherished by the conservatives, but rather a polemical act, which, though it had domestic roots, was even more tied to the unresolved—and, after 1918, even more complicated—question of Germany’s position in Europe and the world. This radicalization of the Weimar bourgeoisie, conditioned by both domestic and foreign policy factors—not the leading role of “reaction” in contemporary society—made possible the spread of the aforementioned ideas and decisively contributed to the formation of the ideological construct later referred to as the “conservative revolution.” We will have to explore this in more detail.¹⁶⁵⁹

2. The conservatives and social policy in the 19th century

The examination of the conservatives’ social policy — or more precisely: of the conservative stance on the question of social policy — belongs in this chapter of our work, for contrary to the legends in which not only conservatives have believed up to this day, it does not document the vitality and practical impact of traditional patriarchalism, but rather its downfall as a result of the assimilation of the nobility by capitalist society. This became fully apparent at the end of a development that lasted several decades and — if schematic divisions are permitted here — can be broken down into three broad phases, though they often coexisted. Initially, under the impression of the revolution and out of fear of it, an attempt is made to carry out charitable activity, grounded in Christianity and inherited from the Middle Ages, in a more systematic and quasi-preventative way; then the workers’ question is turned against the bourgeoisie, with the concrete aim of placing obstacles in the path of the expansion of capitalist industry; and finally, such worker-friendly ideas and plans — however superficial they may have been — are thrown overboard the moment the rise of social democracy calls forth a united front of all property holders.

¹⁶⁵⁹ 148. See Section 3d of this chapter.

The succession as well as the coexistence of these phases can be observed quite clearly in the French development. The systematization of charitable activity in France began already during the Restoration period, under the aegis of organizations such as the *Congrégation*. The operations of the large charitable institution *Association de Saint-Joseph* show how the conservatives of the *Congrégation* intended to turn the potentially explosive (lumpen)proletarian mass into a useful element of the restorative society. The workers lived together, were cared for together, and were also educated — or rather disciplined — together in a strictly Christian spirit; their services were placed with employers who approached the institution according to their needs.¹⁶⁶⁰ Within the framework of this kind of philanthropy, the question of political or social rights for the working class naturally barely arose. This changed, however, after 1830, when the Legitimists searched far and wide for allies to escape their isolation. Now, there was vigorous lamentation that the workers, deprived of the traditional protections of the guild system, had fallen victim to the greed of the capitalists. The inconsistency of liberalism was also pointed out, which, despite its promises of equality, reserved political rights for a small minority. Some royalists “s’entendaient merveilleusement avec les républicains éconduits et trompés, pour demander. .. cette extension si promise de la liberté,” and they gladly made “cause commune avec les citoyens dépossédés de leurs droits”¹⁶⁶¹ against the governments of the greedy bourgeoisie. Earlier plans by the Ultras to play off the suffrage of the lower classes against “the liberal vote” were now elaborated further, and even the workers’ uprisings were portrayed sympathetically in the legitimist press, as they were seen to be directed not against the *hautes classes*, but against the *classes moyennes*. The heartlessness of the industrial system was contrasted with the *charité* once practiced by the Church in the Middle Ages, and a revival of the corporations was proposed — with necessary adjustments, i.e., in the form of *associations professionnelles* of patrons and *ouvriers*.¹⁶⁶²

The restrictions explicitly tied to these seemingly generous concessions tell a different story. Regarding the political rights of the lower classes, those Legitimists who advocate for *réforme électorale et le droit commun* explain that they do not thereby support the *principe démocratique*, but rather the *principe national* — that is, the unity of *roi et peuple* against liberalism; incidentally, these *royalistes nationaux* know that they themselves represent only one wing of Legitimism, and that the two other legitimist factions — the *royalistes parlementaires* and the *royalistes*

¹⁶⁶⁰ 149. For details, see the (apologetic) work by Grandmaison, *Congrégation*, pp. 193ff, especially 213, as well as Duroselle, *Cathol. social*, pp. 29ff.

Montlosier, who disliked the Catholic orientation of the *Congrégation*, characterized the institution’s activity with the following words: “all the workers are now regimented and disciplined” (*Mémoire*, p. 32).

¹⁶⁶¹ 150. See e.g. Adhémar, *Parti légitimiste*, pp. 22ff, 26, 51ff.

¹⁶⁶² 151. Tudesq, *Notables*, vol. I, pp. 219ff; Duroselle, *Cathol. social*, pp. 201ff.

absolutistes — are by no means in agreement with such an expansion of the politically enfranchised, since they were far less able to suppress 1793.¹⁶⁶³ The Legitimists — this time in their entirety — are just as reserved when it comes to defining concrete social measures intended to ease the suffering of the working class. They fear that any state interventionism or dirigisme, regardless of intent or direction, could ultimately infringe upon their own property rights, and thus they refuse to grant the state any decisive role in regulating labor relations. Even Villeneuve-Bargemont, the only representative of social Catholicism who played a significant role in preparing the law on child labor in factories during the Restoration, viewed state intervention in this area as a necessary evil. In his view, the state should not set wages but merely secure a subsistence minimum through indirect measures (e.g., mandatory healthcare). Even the *corporations ouvrières* he envisioned were to organize mutual aid only, and not negotiate wages. Villeneuve-Bargemont was convinced that the social question could not be solved through alms, but apart from a systematization of charitable activity under the Church's supervision, he refused to consider more.¹⁶⁶⁴ Even the most prominent of the conservative social reformers, Armand de Melun, did not propose a comprehensive project to improve the condition of the proletariat, but instead suggested isolated and disconnected measures to alleviate the most acute distress. His greatest hopes rested on the moral improvement of both employers and workers, without which, he believed, no legislation could bring relief; moreover, as a Christian, he remained convinced that, due to original sin, inequality and misery could never be entirely abolished. All of this was practically nonbinding; yet even these nonbindings seemed dangerous or at least suspicious to the majority of conservatives. Most of them wanted nothing to do with *charité*; most of those who accepted *charité* considered it a private matter; and only a very small minority advocated for *charité publique*. After 1848, conservative mistrust toward similar initiatives only grew. The struggle against socialism now took center stage, and nothing was tolerated that might infringe — even indirectly — on property rights. Even *charité publique* now appeared to alarmed conservatives as disguised socialism.¹⁶⁶⁵

We recall that the establishment of capitalist relations in the countryside had already early on cooled the patriarchal mindset of the English landed class.¹⁶⁶⁶ The oligarchy's rule and its Parliament in the 18th century had, among other things, resulted in the abolition of Crown oversight over the local power of noble notables, which in turn led to greater or lesser restrictions in the application of the *Poor Law*,

¹⁶⁶³ 152. Adhémar, *Parti légitimiste*, pp. 51ff.

¹⁶⁶⁴ 153. *Économie politique*, vol. II, pp. 198ff; vol. III, pp. 24, note on p. 98, pp. 155, 170, 187.

¹⁶⁶⁵ 154. On Armand de Melun's work and developments after 1848, see Duroselle, *Cathol. social*, pp. 216, 220ff, 445ff, 448ff, 473ff, 483ff. Cf. Locke, *French Legitimists*, especially p. 196.

¹⁶⁶⁶ 155. See also Chapter I, Section 5.

originally guaranteed by that oversight since Tudor and Stuart times. The *Act of Settlement*, passed already during the Restoration, significantly curtailed poor relief. And through the so-called *Speenhamland Act* of 1795, the large landowners managed to shift the rising costs of poor relief partly onto smaller taxpayers in the parishes, or to keep wages low by invoking the provision of support to the poor. Finally, the overall positive stance of the landed gentry during the passage of the new *Poor Law* in 1834 speaks volumes. This law was one of the first products of the reformed Parliament and bore unmistakably the stamp of that same utilitarian and bureaucratic-centralist spirit which English conservatives otherwise loved to denounce. Apart from its often quite brutal methods to discipline pauper labor and reduce their birthrate, it curtailed the traditional powers of the *Justices of the Peace* and strengthened the position of central authorities accordingly. Nevertheless, conservatives — not just Peel, but also Wellington — raised no objections, as this freed the *country gentlemen* once and for all from the burden of caring for the poor.¹⁶⁶⁷ One important reason why Peel's policies prevailed within the Conservative Party over the so-called Tory Radicals lay precisely in most Tories' detachment from aristocratic paternalism and their adoption of new economic principles, which had already acquired the force of orthodoxy in public opinion.¹⁶⁶⁸ Even Peel's opponents, in their own way, shared this *laissez-faire* orthodoxy — they merely translated it into the familiar language of *local interest* and saw centralist parliamentary legislation as a threat to that *local interest* and the corresponding *rights of property*. Both wings of conservatism, then, were ultimately averse to any significant social policy initiative.¹⁶⁶⁹ The reform legislation of 1846–1854 was the work of the ruling Whigs and Liberals; the Tories' participation was far from enthusiastic, and particularly in regard to social legislation, they supported proposals from their own ranks only passively or even watered them down. The usual argument against such proposals was fear of state despotism. Disraeli, who shortly before had lamented the division of England into two nations, adopted at the time a partly indifferent and partly opportunistic stance: in 1850, he voted — together with Manners — against the Second Mining Act, partly due to his personal friendship with the major mine owner Lord Londonderry.¹⁶⁷⁰

When the Conservative Party did little between 1846 and 1866 to win the favor of a mass that lacked the right to vote, it voted in favor of the Second Reform Bill in 1867 purely out of electoral calculation, not out of any concern for the political rights of the working class; just a year earlier, it had in fact rejected a (smaller)

¹⁶⁶⁷ 156. Trevelyan, *English Social History*, p. 552; for the earlier development summarized above, see pp. 244ff, 292, 482ff.

¹⁶⁶⁸ 157. Blake, *Conservative Party*, pp. 20ff, especially 24.

¹⁶⁶⁹ 158. Roberts, *Tory Paternalism*, pp. 333ff.

¹⁶⁷⁰ 159. *Ibid.*, pp. 331, 332, 335.

expansion of suffrage.¹⁶⁷¹ Still, the party now had to win over the new voters — precisely at a moment when the bourgeoisie, alarmed by the reformist zeal of radicalism and the new suffrage, began shifting toward the Conservatives. Under these conditions, there could no longer be any talk of an anti-capitalist alliance between Tories and workers; a vaguely worker-friendly tone was indeed struck, and the social question was often invoked, as it was a useful wedge to split the liberal camp. At the same time, however, the relative weight of the bourgeoisie within the party grew steadily and had to be accounted for. Taken as a whole, the Conservatives did not resist this necessity — in fact, they adapted to it readily. As staunch defenders of property rights, they could far more easily speak the same language as the bourgeoisie than adopt worker demands that gnawed at those rights. To the extent that, during Disraeli's second government, they expanded factory legislation or the health and education systems, they merely continued the Liberals' policy — only more hesitantly — without being able to develop a social policy of their own on a new foundation. Their ostentatious paternalism stopped short at the specter of dirigisme and collectivism, and was increasingly overtaken by the classical slogans of liberalism. The merging process already observed in the 1840s and 1850s — between the ideology of *local interest* and the fashionable *laissez-faire* orthodoxy — was now complete, and principled rejection of state interventionism became the broad common denominator between the remnants of old conservatism and its (new) bourgeois clientele. The Conservative Party's stance on social policy was increasingly shaped by this outlook. Even the Christian phraseology often used in debates on the social question did not necessarily imply a clear commitment to vigorous social policy, since it could be interpreted either as a duty toward the suffering fellow man or as a call to personal responsibility and thus aligned with the anti-statist principle of *self-help*. Vagueness and non-commitment regarding the solution to the social question also marked R. Churchill's later-emerging *Tory Democracy*, which was essentially an incoherent collection of slogans intended to promote the political career of its author. In the end, the Conservatives had no instrument left to win over the working class but the nationalist-imperialist rhetoric first employed by Disraeli; even its initial limited success, however, did not outlast the formation of an independent party-political representation of the organized labor movement.¹⁶⁷²

The history of the conservative stance on social policy is more nuanced in Germany, where neither the patriarchal mindset died out as early as in England, nor was the landed nobility pushed into the social background as early as in France. It was precisely the close personal relationship between nobility and peasantry in Germany¹⁶⁷³ that made conservative attitudes like that of Marwitz possible. After the Wars of Liberation, Christian-conservative charitable

¹⁶⁷¹ 160. Cowling, 1867, especially pp. 63ff.

¹⁶⁷² 161. Blake, *Conservative Party*, p. 123; Smith, *Disraelian Conservatism*, pp. 29ff, 319ff.

¹⁶⁷³ 162. Weis, *Vergleich*, especially pp. 9, 13.

associations also began to operate in Germany, whose function was essentially to stabilize existing hierarchical relations. Christian love, so the reasoning went, forms the necessary counterpart to the likewise Christian-sanctioned office of the nobility as the leading estate — thus, the nobility loves by ruling, and rules by loving; moreover, the Christian lens on social problems had the advantage of interpreting poverty as a byproduct of moral degeneration.¹⁶⁷⁴ Now, economic developments in the *Vormärz* period were marked both by the gentrification of estate management — where market-based criteria increasingly supplanted traditional patriarchal considerations¹⁶⁷⁵ — and by the emergence of a proletariat in the cities. Tellingly, conservatives at the time focused their anxious attention not so much on the future of patriarchalism and their own Christian vocation under the new agricultural conditions, but rather on the plight of the proletariat and the greed of industrialists. There were some, like Leo, who believed that the harshness of workers' lives gave them a protective "callus," so that one needn't worry about them — "God knows what he's doing."¹⁶⁷⁶ But most politically active conservatives (also influenced by widely read French Legitimist writings) early on recognized the strategic potential of exploiting class antagonism within the emerging industrial society. Thus, the views or indictments of A. Müller and Baader regarding the inhuman mechanization of labor and oppressive factory conditions quickly found their way into the *Berliner Politisches Wochenblatt*, which on its own initiative denounced the "hunger compulsion" that kept workers obedient and warned the bourgeoisie not "to tighten the bow too far, to suck the workers' strength in wild arrogance," lest it provoke the propertyless masses.¹⁶⁷⁷ When governments were called upon to join the people against the aristocracy of money, what was really meant were measures whose ultimate practical effect would have been to cripple the growing forces of capitalism in favor of traditional forms of production and ownership. A feudalization of the factory system was demanded — its reorganization along patriarchal lines — which would have rendered it as rigid and stunted in development as feudal agriculture had been. To overcome anonymity and fragmentation, workers were to be gathered into corporations and tied to the enterprise; the free labor market — vital for the rise of capitalism — would thereby be abolished. Factory owners were to have the same rights over their workers as estate lords had over their peasants — but even this was no *carte blanche* for capitalism's unrestricted growth, since not everyone would be allowed to found a business, only those with the necessary experience and capital. The new entrepreneurial type would have to yield once again to the old master craftsman,

¹⁶⁷⁴ 163. Goetting, *Idee*, pp. 34, 48.

¹⁶⁷⁵ 164. For details, see Jordan, *Entstehung*, pp. 54, 63ff; cf. Neumann, *Stufen*, pp. 37ff, 40.

¹⁶⁷⁶ 165. Quoted in Goetting, *Idee*, p. 7.

¹⁶⁷⁷ 166. Scheel, *Berl. Politisches Wochenblatt*, especially p. 148ff; Goetting, *Idee*, pp. 22ff (including the quotes cited there).

with guilds and associations being strengthened, and certain corporately structured enterprises taken over by the state itself. The legal regulations for this organization of factory life were ultimately to be set by *Ständeversammlungen* — that is, in practice, by the nobility.¹⁶⁷⁸

This implication is clear enough: the social question is assumed to be manageable — if only the nobility retains full political and institutional preeminence. In this sense, the Gerlachs still claimed in the summer of 1848 that the solution to the social question lay in political questions.¹⁶⁷⁹ This conviction, moreover, spared them the cunning — and given its premises, actually insoluble — task of seeking radically new answers to a radically new social problem. They were therefore indignant about “all the nonsense being said about the proletariat and the social question,” and held fast to the view that “the only remedy against communism” lay in ensuring that property not be selfishly enclosed, but understood as a divinely entrusted office.¹⁶⁸⁰ Traditional patriarchy thus seemed sufficient — provided it now extended to industry as well. Any interference by the state or organization of the proletariat into a fourth estate that would significantly alter the political scene, on the contrary, appeared too innovative and dangerous. If the Gerlachs were more composed than other conservatives regarding the development of industry, it was not due to any fondness for capitalist progress or for modernizing conservatism in a liberal direction, but precisely because of their mistaken belief that the structures of *societas civilis* were still solid enough, despite everything, to absorb the new economic forms without major upheaval — provided that traditional relations of rule remained stable in their original domain and were extended to encompass the new industrial sphere.

The rapid rise of capitalism in the following years, along with the proliferation and massification of the proletariat and the increasingly self-assured appearance of the new entrepreneurial type, made any simple transfer of agrarian patriarchy to industry more problematic by the day — prompting some conservatives to develop new thoughts and plans. These conservatives argued that, given capitalism’s already entrenched social power, the struggle against it had to be carried over into the social sphere and waged through social measures in favor of the working class. Remaining at the political surface level, Wagener later wrote, would benefit only the bourgeoisie, whose “most habitual — and unfortunately still effective — conjuring trick is to immediately shift every inconvenient economic and social question into the political domain and drown out the people’s social

¹⁶⁷⁸ 167. On the proposals in *Berliner Politisches Wochenblatt* for solving the social question, see the reports by Scheel, *Berl. Politisches Wochenblatt*, pp. 160ff, and Goetting, *Idee*, pp. 24ff.

¹⁶⁷⁹ 168. *Nachlass*, vol. I, p. 107.

¹⁶⁸⁰ 169. Letter from Leopold to E. L. von Gerlach dated July 12, 1850 = *Nachlass*, vol. II, p. 618; *Denkwürdigkeiten*, vol. I, p. 605 (March 8, 1851).

grievances with the racket of political freedom-bluster.¹⁶⁸¹ But the bourgeoisie gains nothing from political rhetoric when hit at its vulnerable point — the social realm. And this vulnerability cannot be addressed through Christian-inspired charity or by grafting patriarchalism from agriculture onto industry, but only through systematic legislation by a state with anti-capitalist intent.¹⁶⁸² However, the new role assigned to the state does not mark a final farewell to the project of industrial feudalization or to patriarchalism as such. Rather, it signifies a tacit recognition that capitalist industry had grown so powerful it could no longer be brought under control without the strong support of the state. If patriarchalism proved ineffective on an individual and voluntary basis, it was now to be replaced by a collective patriarchalism — that of a state directed by the collective interest of the nobility. The corporate organization of labor, with all it implies for both containing capitalism's wild expansion and disciplining the proletarian masses, thus remained a central demand, even if now on a broader footing. It was declared necessary to "discipline" the masses so they could be "guided and enlightened about their true interests" — in other words, they were to be convinced "through action" how they could be helped, provided they submitted to a rational order.¹⁶⁸³ The nature of this "rational order" becomes clearer when we consider, for example, the social conservatives' opposition to the cooperatives envisioned by Schultze-Delitzsch. The individualistic principle of voluntarism on which these were based seemed unacceptable to them. In contrast, they wanted to preserve the authoritative character of the corporation, which they viewed as its essential social feature. For the same principled reasons, they rejected the free individual labor contract and recognized only those contracts concluded by the occupational corporation. The ultimate political goal of the corporative idea was the transformation of the atomized proletarian mass into a structured estate — one that could even be granted a voting right corresponding to its position within the hierarchy of estates.¹⁶⁸⁴

It must now be kept in mind that the social-conservative plans for the corporative structuring of industry — as well as proposals such as worker participation in entrepreneurial net profits¹⁶⁸⁵ — were not inspired by general humanistic considerations but by concrete socio-economic concerns. Like all other conservatives, the social conservatives mentioned here were guided by the

¹⁶⁸¹ 170. *Erlebtes*, vol. II, p. 65.

¹⁶⁸² 171. Saile, *Wagener*, especially pp. 48ff, 80ff.

¹⁶⁸³ 172. *Staatslexikon*, vol. II, p. 486 (entry: Labor, Workers, Working Hours).

¹⁶⁸⁴ 173. Hahn, *Revue*, pp. 104ff, 136, 119ff, 122ff; cf. Wagener in the preface to *Staatslexikon* (vol. I, p. 8): "Nothing against the people's participation in legislation, if it is carried by... corporations."

¹⁶⁸⁵ 174. Even Radowitz, *Fragmente*, vol. I = *Collected Writings*, vol. II, pp. 292ff. Radowitz maintained, however, that workers' shares should be capitalized in savings banks under state supervision.

observation or fear that industry would gradually achieve absolute dominance over agriculture, thereby overturning existing social structures and relations of rule. State intervention in the economy — including the corporative structuring of industry and social legislation — was to serve the overarching goal of maintaining the traditional economic and social primacy of agriculture, or at least of establishing a balance acceptable to the landed nobility.¹⁶⁸⁶ The rise of industry did not occur independently of agriculture, but had immediate, tangible consequences for the landowners' purses. As capital profits rose faster than land rents, investment in industry became more lucrative than in agriculture, leading to a decline in the value of land and aristocratic estates. For the same reason, agriculture now faced stiff competition and increasing difficulty in the money and credit markets, where it had recently still been dominant. This is why conservatives opposed the liberalization of interest rates, fearing a rise in borrowing costs. Moreover, industrial expansion accelerated rural depopulation and made the formerly cheap rural labor force increasingly scarce.¹⁶⁸⁷ Conservatives expected that higher industrial wages would reduce the profit rate of capital, increase workers' food consumption, and thereby raise land rents. The corporative structuring of industry was expected to have similar effects, by increasing personnel and social costs, and by reducing business flexibility and the appetite for innovation. This encirclement of a booming capitalist industry was finally to be completed by promoting the artisan trades through a modernized guild law, since craftsmanship was still seen as the living embodiment of the antithesis to capitalist mass production.¹⁶⁸⁸

There is direct evidence that conservative social policy ideas did not stem from general humanistic motives but from concrete economic considerations. Their proposed social improvements concerned exclusively industrial workers and completely ignored the rural labor force. When it came to agricultural laborers, social conservatives supported the traditional servant relationship and traditional *caritas* (including corporal punishment and confinement); proposals like enabling rural laborers to accumulate property remained not only sporadic but found no

¹⁶⁸⁶ 175. Hahn, *Revue*, pp. 546ff. This is explicitly stated by Wagener in his report to Bismarck dated June 10, 1869, in which social policy measures are also proposed. It calls for "the action of state authority, which has so far primarily served inwardly... and outwardly... the interests of the commercial and industrial classes, to now turn, at least to some degree, toward the interests of the landed class and the working classes" (quoted in Saile, *Wagener*, p. 147).

¹⁶⁸⁷ 176. Schüddekopf, *Innenpolitik*, p. 43; Hahn, *Revue*, pp. 60, 96; Herberger, *Stellung*, p. 29.

¹⁶⁸⁸ 177. On the conservative stance toward craftsmanship and its evolution, see Goetting, *Idee*, p. 23; Hahn, *Revue*, pp. 86, 92ff, 96ff; Herberger, *Stellung*, pp. 31ff; cf. E. L. von Gerlach, *Nachlass*, vol. I, p. 308.

resonance at all.¹⁶⁸⁹ Conservatives opposed any state-organized poor relief that would have financially burdened landowners, while at the same time advocating for legal compulsion in matters of factory worker welfare.¹⁶⁹⁰ Child protection laws received their approval only insofar as they applied to children engaged in wage labor within industry.¹⁶⁹¹ Even in regard to industrial workers, however, self-interested considerations dampened conservative reformist zeal. The fears of the Gerlachs — that a state-driven social policy exceeding the bounds of patriarchalism would ultimately only strengthen the state bureaucracy at the nobility's expense — were more or less shared, openly or covertly, by most social conservatives, and placed strict limits on their demands in matters of social policy. Since worker protection was expected to weaken industry without empowering the state, conservative opponents of "state socialism" argued that the costs of worker protection should not be borne by the state but by employers.¹⁶⁹² Potential allies such as artisans were warned not to expect too much from state intervention, as it inevitably came with disadvantages.¹⁶⁹³ Beyond the fear of statist tendencies, purely economic reasons also contributed to the conservatives' reluctance to endorse far-reaching worker protections. A visible improvement in industrial workers' conditions would only intensify the *Leutenot* — the rural exodus¹⁶⁹⁴ — at least as long as the corporative organization of factory life had not yet closed the doors to newcomers from the countryside. Even the introduction of a maximum working day in industry would worsen the labor shortage in agriculture, since shorter hours would necessarily increase the demand for industrial labor.¹⁶⁹⁵

The conservatives knew — and openly stated — that their common ground with the workers' movement extended only "as far as their shared opposition to the rule of money capital."¹⁶⁹⁶ This defined the limits of their social policy engagement. The objective constraints already mentioned prevented them from seriously considering legislative measures that went beyond relatively marginal issues like child protection or Sunday rest.¹⁶⁹⁷ Even the social conservatives could not detach themselves from a fundamentally Christian view of the social question, which, beyond commanding love for one's suffering neighbor, also upheld the principle of personal responsibility and self-help. Accordingly, their practical

¹⁶⁸⁹ 178. Hahn, *Revue*, pp. 179, 182ff.

¹⁶⁹⁰ 179. Herberger, *Stellung*, p. 566.

¹⁶⁹¹ 180. Stillich, *Die Konservativen*, p. 120ff.

¹⁶⁹² 181. Richthofen, *Wandlungen*, pp. 38, 40.

¹⁶⁹³ 182. *Staatslexikon*, vol. VIII, p. 327 (entry: Trade).

¹⁶⁹⁴ 183. Richthofen, *Wandlungen*, p. 72.

¹⁶⁹⁵ 184. Stillich, *Die Konservativen*, pp. 122ff.

¹⁶⁹⁶ 185. Thus *Kreuzzeitung* on May 7, 1863, quoted *ibid.*, p. 111.

¹⁶⁹⁷ 186. Herberger, *Stellung*, pp. 50ff.

proposals remained thin and uninspired.¹⁶⁹⁸ “Christian love” as a guiding star for addressing the social question could lead either to attributing material hardship to sin¹⁶⁹⁹ — conveniently shifting the issue to the religious sphere¹⁷⁰⁰ — or to rejecting poor taxes and state relief on the grounds that they would undermine individual charity and fail to elicit gratitude in the recipient, ultimately fostering hatred between rich and poor.¹⁷⁰¹ Conservatives were somewhat more willing when it came to child protection, but even here they hesitated on concrete action. They would say the matter needed further study, or propose relatively harmless measures, like appointing industrial inspectors. Government involvement was welcomed insofar as it concerned education or healthcare, but any substantial interference was discouraged, justified by arguments like: “In matters pertaining to national economic care, one must proceed with great caution, so as not to discourage enterprise through clever obligations or expenses.”¹⁷⁰² These words already reveal the emerging front of all property holders against the Fourth Estate — and with that, conservative social policy efforts wither further. It’s telling that the flaws of the industrial-capitalist system, usually decried loudly, are relativized as soon as the primary polemic turns against socialism. Then, it is said, “tremendous effort” would be needed to carry out all social relations and transactions with feeling and love; full humanization of labor and realization of the human essence within it is declared impossible — for labor, after all, remains “forced labor” and a “painful corvée.”¹⁷⁰³ Thus, the Christian view of labor increasingly served the interests of capitalism, to the extent that within social conservatism, the merely philanthropic tendency prevailed.¹⁷⁰⁴

It would be an optical illusion to infer from the quantity of social-conservative writings the existence of a broad worker-friendly current among conservatives. Nothing could be further from the truth. These writings primarily reflected the

¹⁶⁹⁸ 187. Hahn, *Revue*, pp. 67, 69ff.

¹⁶⁹⁹ 188. See e.g. *Grundzüge*, p. 91.

¹⁷⁰⁰ 189. Herberger, *Stellung*, pp. 22ff.

¹⁷⁰¹ 190. *Staatslexikon*, vol. II, pp. 612ff (entry: Poor Tax). Elsewhere, state poor relief is also opposed in favor of private or church charity; the state is mainly expected to found poor schools, agricultural and industrial schools, etc. (vol. II, pp. 616, 620ff, entry: Poor Relief).

¹⁷⁰² 191. *Ibid.*, vol. VIII, pp. 338ff (entry: Trade).

¹⁷⁰³ 192. *Ibid.*, vol. XIX, pp. 317ff, 319ff (entry: Socialism).

¹⁷⁰⁴ 193. On the dominance of the same tendency in Ketteler’s movement, see Bowen, *German Theories*, especially pp. 83, 87. Ketteler wisely emphasized that “Christianity and the Church influence social conditions not directly and through external, more or less mechanical means and institutions, but primarily through the spirit they instill in people” (*Arbeiterfrage*, p. 104). The “means” Ketteler himself proposed were indeed quite modest (pp. 106ff) and based on the principle of self-help; even cooperatives were not to expect state aid, since taxing the wealthy classes for such purposes would be “an infringement on the right to property” (p. 139).

efforts of a small minority to awaken their fellow conservatives' interest in the social question. When Wagener retrospectively boasted that all social policy initiatives in the 1850s had come from conservatives — and not from Catholics, who at the time were still enamored with capitalism — he was clearly referring only to himself and a few others, since he added: “the great mass of conservatives still had absolutely no understanding of such issues.”¹⁷⁰⁵ Nor did that mass make much progress in this regard later.¹⁷⁰⁶ It is worth emphasizing that the vast majority of social conservatives came from the bourgeoisie; the nobility, while playing a decisive role in the political movement of conservatism, had only a subordinate role here.¹⁷⁰⁷ Conservative reformers could sing a bitter tune about the nobility's indifference to the social question — as evidenced, for example, by Huber's experiences and remarks. Huber may be labeled a conservative if one takes his (rather vague) political ideas as a benchmark, which combined estate-based participation in an organically structured state with absolute royal authority.¹⁷⁰⁸ But his social policy ideas broke significantly with the prevailing conservative framework — not out of anti-conservative affect, but rather because of the fundamentally non-political character of his thinking, evident in his aversion to those who saw “the alleviation of social hardship merely as a means of satisfying political party interests.”¹⁷⁰⁹ Unlike the party-politically militant social conservatives, Huber did not view the social question merely as a lever to be used against capitalist industry and liberalism. He proceeded from general Christian-philanthropic considerations,¹⁷¹⁰ which bore no necessary relation to the strategic calculations of one faction or another. Thus, he ended up caught between all stools, and his social policy ideas and efforts are only indirectly representative of German conservatism of his time — that is, through the reactions they provoked within the conservative camp.

The nature of these reactions — and thus the true social-political face of German conservatism at the time — is revealed in the bitterness with which Huber describes the fate of his efforts. Among conservatives, he writes, the “inhuman conditions of the day laborers” were either not a subject of “conscious thought or feeling” at all, or they appeared “quite tolerable and normal.” Plans like his own displeased “those circles where the salvation of the world was seen in the doctrine

¹⁷⁰⁵ 194. *Erlebtes*, vol. I, pp. 69, 61.

¹⁷⁰⁶ 195. Herberger, *Stellung*, p. 48; Richthofen, *Wandlungen*, p. 12.

¹⁷⁰⁷ 196. Hahn, *Revue*, p. 200.

¹⁷⁰⁸ 197. Paulsen, *Huber*, pp. 32ff, 42ff. Huber clarified that by absolute royal authority he did not mean “coups d'état,” but merely the king's right of veto; he accused the *Kreuzzeitung* party of sharing liberalism's mistrust of royal authority “in all its forms” (*Die Arbeiter*, pp. 29f).

¹⁷⁰⁹ 198. *Sociale Fragen*, vol. V, v.

¹⁷¹⁰ 199. Especially *Sociale Fragen*, vol. III (*Die innere Mission*).

of the absolutely conservative power of large landed property, and any deviation from this article of faith was abhorred as revolutionary.¹⁷¹¹ The usual accusation against him was that “we stirred up hateful emotions against the higher social classes in general.” Huber rejects this, of course, and insists on his right to speak plainly about the “ailments” of all classes.¹⁷¹² This tone of the schoolmaster above all party passions, which the outsider Huber liked to adopt in his self-satisfied missionary spirit, must have grated on the nerves of the nobility and conservatives in general. But there were also other, more substantive reasons why his proposals provoked discomfort: they touched the aristocracy’s sore spot by indirectly demonstrating both its inability and its unwillingness to take its patriarchal promise seriously and fulfill it. Huber, like the vast majority of conservatives, rejected solving the workers’ question through the state — whether “bureaucratic-monarchical” or socialist¹⁷¹³ — and maintained that the main work in this domain must be a matter of “self-rescue through free initiative.”¹⁷¹⁴ At the same time, however, he insisted that the free and responsible activity of the upper classes (alongside the self-help of the lower ones) should fully compensate for the absence of state intervention. The contradiction in conservative behavior, he noted, was that the “agitation against bureaucratic paternalism and for self-government in general went quite well together with a pathological aversion to any spontaneous development and activity.”¹⁷¹⁵ An activity that hid behind the excuse of rejecting bureaucracy was all the less excusable in Huber’s eyes, since he expected patriarchal selflessness from the nobility and regarded it as the cornerstone of a reorganized aristocracy involving industrialists.¹⁷¹⁶ Not only did Huber hold a vision of the nobility that diverged both from its actual practice and its self-image, but his own social policy plans also differed significantly from those of mainstream conservatives. Though he, too, sought to overcome the atomization of the working class, he saw the advocates of the cooperative movement, like Schultze-Delitzsch, as closer to that goal than the “patrons and preachers of the guild and association system.”¹⁷¹⁷ In line with his disapproval of the conservatives’ “game with the skeleton of the guild system,” he supported workers’ right to freely choose their

¹⁷¹¹ 200. *Sociale Fragen*, vol. I, pp. 6, 14 f.

¹⁷¹² 201. *Sociale Fragen*, vol. VII, pp. xii–xiii.

¹⁷¹³ 202. *Sociale Fragen*, vol. V, preface. On his polemic against Wagener and Lassalle, see Paulsen, *Huber*, pp. 162ff, 172ff. Huber considered attempts to harness social democracy for conservative goals utterly misguided; he warned against “false cunning... as if these destructive forces could be put to conservative use” (*Sociale Fragen*, vol. VII, preface).

¹⁷¹⁴ 203. *Sociale Fragen*, vol. III, p. 29.

¹⁷¹⁵ 204. *Die Arbeiter*, p. 236

¹⁷¹⁶ 205. Paulsen, *Huber*, p. 73

¹⁷¹⁷ 206. *Sociale Fragen*, vol. VI, pp. 15ff.

place of residence and employment.¹⁷¹⁸ And finally, Huber made himself completely intolerable to the conservatives when he extended his social policy to the countryside and wanted to turn land laborers into prosperous leaseholders.¹⁷¹⁹

The more social democracy grew and took the representation of workers' interests into its own hands, the more conservative social policy faded, and those who still wanted to remain social conservatives either became isolated or radicalized. An extreme case of this dual process of radicalization and disintegration is found in Stoecker's Christian-social movement, where the "Young Ones," led by Naumann, actively championed proletarian interests — and, beyond that, made the unforgivable misstep of taking up the cause of agricultural laborers and demanding the redistribution of land. Stoecker tried to rein them in while simultaneously wanting to keep them within his movement; by doing so, he ended up in an ambiguous position. This essentially staunch conservative man incurred the displeasure of the conservative camp and was pushed to the margins, while Naumann broke completely with social conservatism.¹⁷²⁰ Other social conservatives radicalized by adopting fragments of Rodbertus's state-socialist doctrines; yet this, too, resulted only in increasing alienation from organized political conservatism.¹⁷²¹ The conservative parties were willing to support the Centre Party's middle-class policies — focused mainly on preserving small retailers and craftsmen — but they remained reserved when it came to worker protections, which were also part of the Centre's social policy. By then, it was not only conservatives who feared social democracy: Catholic social policy, too, rapidly adapted to capitalist realities, even if patriarchal and corporative reminiscences still adorned the Centre's propaganda vocabulary.¹⁷²²

3. The Aestheticization and Reinterpretation of Conservative Motifs of Thought in Political Intellectual Movements

a. Overview

The collapse of the classical conservative thought-structure becomes evident in the gradual disappearance of its two guiding principles: the thesis of the unmakeability of law and, bound up with it, the rejection of modern sovereignty and its immediate implications. These vanish from circulation as the institutions sustaining modern statehood in its various forms assert themselves across the

¹⁷¹⁸ 207. *Die Arbeiter*, pp. 24, 6.

¹⁷¹⁹ 208. *Sociale Fragen*, vol. I, pp. 13f, 116.

¹⁷²⁰ 209. See the account in Heffter, *Kreuzzeitung*, pp. 228ff, 246ff.

¹⁷²¹ 210. Hahn, *Revue*, p. 207.

¹⁷²² 211. Richthofen, *Wandlungen*, pp. 26ff, 71ff.

board and leave no doubt that — and how — law is made. Meanwhile, around these guiding principles, a number of theological, anthropological, social-theoretical, etc., extrapolations had formed, which, even after the dissolution of the core conservative worldview, went on to lead an independent existence. In doing so, they entered into fleeting or lasting liaisons with movements and ideas of significantly different inspiration, often without any awareness of their origin. The great axis around which these dispersed, still-surviving conservative thought-motifs now revolve is the critique of capitalism — particularly in its cultural-critical form. Yet capitalism, its ugliness, and its inhumanity are no longer opposed by what conservatives once fundamentally counterposed to it: namely, the more or less idealized image of *societas civilis*. Instead, the opposing ideals now come mainly from the imaginative world of the post-Romantic aestheticizing intelligentsia of the 19th century: beauty, powerful energy, inner harmony and order, etc. Even when the pre-capitalist past continues to be idealized polemically, this is done from the perspective of a new aesthetic (and moral) value scale, without necessarily leading to the legitimization of any specific traditional form of rule. Based on these ideals, social life as a whole is now to be organized — that is, made. In contrast to the priorities of classical conservatism, a strong voluntarist element now comes to the fore, along with its agent: there is rhapsodizing about the great personality, and also about an elite — only occasionally and superficially linked to the old nobility — which consists rather of artists, industrialists, or Caesars, sets itself apart clearly from the masses, and takes on the task of organizing their lives under the conditions of industrial society. The speculative ideal in its antique-Christian-aristocratic form fades (though it survives, modified, in the aesthetic), and the deity of the *homo faber* and the industrial age — namely, labor — is worshipped instead, in various ways. Moreover, the theistic metaphysical background of classical conservatism is tinged — or rather, itself aestheticized — and transformed into a cosmic framework into which the new ideals, from beauty to heroism, are now projected in imagery. Spiritualistic motifs, which often take center stage, do not signal adherence to the dogma of (the by-now thoroughly aestheticized) Christianity, but rather express opposition to capitalist utilitarianism and vulgar materialism.

This intellectual construct is, in terms of intellectual history, fundamentally new. Many of its components are not, but they are marked by aestheticism, voluntarism, and the idea of elite — and this significantly alters their function, such that one can hardly speak of conservatism in the specific sense of the word anymore. In its near pan-European diffusion, this current linked up with smaller political-intellectual movements; its influence, however, remained more intellectual than political. Anyone attempting to pinpoint its political position would be ill-advised to label it “conservative.” For apart from the fact that it contains elements also widely used in “progressive” movements, it is illegitimate to confuse what was called “conservative” in the 19th century with what is called “right-wing” in the 20th. This widespread confusion underlies many accusations —

and is also the source of many errors. Here, we aim to avoid both.

b. English Forerunners

We know that intellectuals who placed themselves in the service of the conservative cause simultaneously sought to assert their particular self-consciousness as intellectuals by assigning a leading role to the sage or the artist within their ideal social models.¹⁷²³ Around the same time Coleridge was drafting his plan for a *National Clerisy*, he lamented that England's commercial and materialistic spirit had undermined respect for art.¹⁷²⁴ Although Coleridge remained more or less within the bounds of classical conservatism as a political thinker, even those intellectuals who broke beyond those bounds were shaped and inspired by similar, personally troubling experiences. Carlyle, too, was deeply dissatisfied with the status of genius and the poet in contemporary England.¹⁷²⁵ This was not a casual, time-critical aside, but the existential starting point of his social theory. For "the Man-of-Letters must be regarded as our most important modern Person";¹⁷²⁶ he is the bearer of culture — and Carlyle's critique of his time and of capitalism, which culminates in the outline of a counter-model of society, is grounded precisely in a certain idea of culture. In the eyes of the unjustly disadvantaged man of letters, the great failing of capitalist society is that culture does not encompass the social as a whole (thus granting the writer or artist full freedom of development), but remains a specific occupation, a separate sphere among others.¹⁷²⁷ Carlyle's idea of culture contains both an artistic and a religious component — but this does not imply a split or contradiction, because both the religious and the artistic are under the sign of the aesthetic.¹⁷²⁸ In Carlyle, the modern artist does not rebel against the medieval priest; rather, through aestheticization, religion becomes a reliable ally of art in the current struggle against capitalist unculture. Both — art and aestheticized religion — embody the higher, the refined, the spiritual, the eternal, in opposition to the vulgarity, superficial profaneness, and transience of material values and the materialist mindset of the age. Religion, in particular, refers not to specific dogmas and rituals but to a spirit-fed attitude of the mind — one that refuses to let itself be corrupted

¹⁷²³ 212. See Chap. II, Sect. 8.

¹⁷²⁴ 213. Talk, 7. 7. 1831 = S. 122,

¹⁷²⁵ 214. See, e.g., Past and Present, II, 9 = Works, X, 86.

¹⁷²⁶ 215. On Heroes, V = Works, V, 155.

¹⁷²⁷ 216. Williams, Culture, 97.

¹⁷²⁸ 217. Cf. the identification of Fine Arts and Religion in Coleridge, Statesman's Manual, I, App. C = Coll. Works, VI, 62.

See also Carlyle, Shooting Niagara, Works, XXX, 25: "the genuine Art ... is a higher synonym for God Almighty's Facts."

by greed and other capitalist sins.¹⁷²⁹ Despite its undogmatic character, Carlyle's religiosity retains a connection to Christianity. Like the classical conservatives, Carlyle sees modernity as a departure from God, who has been reduced to a "Clockmaker," with utilitarian doctrines taking the place of divine commandments.¹⁷³⁰ From the idealized Christian past, he also draws the mythical stylizations and figures (such as the *Ancient Monk*) that illustrate his positive value scale. Though the aestheticization and thus secularization of Christianity carries more historical weight in his work than the retention of Christian motifs per se, it should nevertheless be noted that the kind of paganism that will characterize related currents around 1900 is still largely absent in Carlyle.

What, then, are the characteristics that make capitalism so detestable? Carlyle takes offense at the fact that, despite growing wealth, the gap between rich and poor continues to widen, and he demands the elimination of exploitation and the establishment of justice.¹⁷³¹ Yet for all his emphatic rhetoric, this is not his deepest concern. His central focus lies rather on the anthropological and cultural consequences of material profit-seeking and the transformation of all values into money. In capitalist society, he writes, there prevails "the terror of Not-succeeding; of not making money, fame, or some other figure in the world — chiefly of not making money... We have profoundly forgotten everywhere that Cash-payment is not the sole relation of human beings."¹⁷³² The deification of money and the killing of the soul: for Carlyle, this is the essence and, at the same time, the most horrifying crime of capitalism. A system that brings about such things cannot be purely economic; it constitutes a broad and complex phenomenon that imprints its mark on an entire historical epoch. Carlyle defines the present as the "mechanical age" — and by that he explicitly does not mean only the replacement of traditional tools by modern machinery, nor just capitalist modes of production, but "a mighty change in our whole manner of existence." The mechanical nature of this new way of life manifests itself on different levels and in various ways. The exact natural sciences and their "mechanical metaphysics" displace religion and art; scientific work is organized collectively, silencing the voice of the singular genius; parties and societies impose tangible limits on free creative initiative; and finally, the entire institutional web is regulated by criteria of mechanical equilibrium.¹⁷³³ The sad and hated result of this all-encompassing domination by the mechanical is a soulless world, populated by soulless people.

The historical inferiority of the *Mechanical Age* becomes apparent when one

¹⁷²⁹ 218. Cf. Roe, *Social Philosophy*, 63f; Lippincott, *Victorian Critics*, 105, 315.

¹⁷³⁰ 219. *Past and Present*, III, 1 and 2 = Works, X, 136ff, 147ff.

¹⁷³¹ 220. *Ibid.*, 1, 2 = Works, X, 6, 13, 18. See already *Signs of the Times* (1829) = Works, XXVII, 60.

¹⁷³² 221. *Past and Present*, III, 2 = Works, X, 146.

¹⁷³³ 222. *Signs of the Times*, Works, XXVII, esp. 59–68.

looks back into the past and sees that the greatest and most beautiful achievements in history were not accomplished through mechanical principles, but rather through the dynamic unfolding of human powers and the will to realize moral and aesthetic values.¹⁷³⁴ Yet the dissolution of classical conservatism is reflected in the fact that Carlyle, despite occasionally idealizing the past, never once considers returning to it. Quite the opposite. His plans and hopes are directed toward the future; he seeks a genuine rejuvenation of the world — the creation of an entirely new world. Preservation — let alone restoration — is not declared the primary task, and thus the specifically conservative perspective is abandoned: “There must be a new world, if there is to be any world at all! That human things in Our Europe can ever return to the old sorry routine, and proceed with any steadiness or continuance there; this small hope is not now a tenable one. These days of universal death must be days of universal newbirth, if the ruin is not to be total and final!¹⁷³⁵” This rejuvenation of the world must be achieved by reactivating what Carlyle had earlier called the *dynamical nature of man*, as well as through a dynamic science that “drives and guides the primary, unmodified forces and energies of man, the mysterious springs of Love, and Fear, and Wonder, of Enthusiasm, Poetry, Religion.¹⁷³⁶” And here again lies the decisive difference from classical conservatism: Carlyle does not treat the problem of renewal against a quasi-timeless anthropological backdrop, but within the context of the industrial working society itself. He even affirms this society and its highest law, labor, believing that man can achieve greatness even within it — that even here, God can reveal His face: “Our Epic having now become Tools and the Man, it is more than usually impossible to prophesy the Future. The boundless future does lie there, predestined, nay already extant though unseen ... the united intelligence and effort of All Men in all coming generations, this alone will gradually prefigure it, and figure and form it into a seen fact!” Although the future cannot be fully imagined in detail, two things are certain: “that a Splendour of God, in one form or another, will have to unfold itself from the heart of these our Industrial Ages too,” and “that there will be again a King in Israel; a System of Order and Government.¹⁷³⁷” Carlyle is convinced that labor can be understood and practiced in a dynamic sense, such that the industrial system can be transformed from a tool of Mammon into a service to God: “God-like Labour” and “brutal Mammonism” do not coincide. Quite the contrary: “Giant Labour, truest emblem there is of God the World-Maker, Demiurgus, and Eternal Maker; noble Labour, which is yet to be the King of this

¹⁷³⁴ 223. *Ibid.*, 70ff.

¹⁷³⁵ 224. *The Present Time* (1850) = Works, XX, 2. Elsewhere: “The State ... will have to alter very much, to alter, I think, from top to bottom, if it means to continue existing in the times that are now coming and come” — see *Downing Street* (1850) = Works, XX.

¹⁷³⁶ 225. *Signs of the Times*, Works, XXVII, 70, 68.

¹⁷³⁷ 226. *Past and Present*, VI, 1 = Works, X, 249, 250.

Earth.¹⁷³⁸ With this, Carlyle solemnly parts ways with the ancient and Christian ideal of the *vita speculativa* as the highest human fulfillment — an ideal still honored by classical conservatism: “There is a perennial nobleness, and even sacredness, in Work; in Idleness alone is there perpetual despair. Work... is in communication with Nature... a man perfects himself by working.” “Labour is Life: from the inmost heart of the Worker rises his god-given Force, the sacred celestial Life-essence breathed into him by Almighty God.¹⁷³⁹”

On the basis of his affirmation of industrial working society, Carlyle turns to the question of how the new elite or aristocracy — which is to lead this society — should be formed. The internal democratic tendency of capitalism and its current dominance are, for Carlyle,¹⁷⁴⁰ indisputable; but just as certain to him is that democratic equality is incompatible with the hierarchical structure and lawful order of the world. If the masses are the natural bearers of democracy, and if democracy means the reduction of all human relations to *cash payment*, then the degeneration of society can be countered in only one way: “the few Wise will have ... to take command of the innumerable Foolish.¹⁷⁴¹” The great question is now how this inevitable aristocracy should appear within an equally inevitable industrial, working society — that is, to what extent it will resemble the traditional noble upper class or not. Carlyle answers this by distinguishing between a *working* and an *idle* (landed) aristocracy, ultimately favoring the former. While in earlier times — before *cash payment* became “the only nexus of man to man” — the old elite may have fulfilled its governing role satisfactorily, the changed times demand a new aristocracy. Even though Carlyle must defend the old aristocracy against democracy, he nonetheless ruthlessly exposes its weaknesses (and those of the clergy), showing how it has become entangled in the game of capitalism.¹⁷⁴² This decline, however, was not simply a post-1832 development: as early as 1839, Carlyle writes that Parliament had concerned itself solely with itself and the material interests of its members for over a century¹⁷⁴³ — thus, it was already corrupt and ineffective in the 18th century.¹⁷⁴⁴ And it has remained so: Parliament is described as a “*Bribery Committee*” and a worthless assembly of “*eight hundred Parliamentary Talkers*.¹⁷⁴⁵” Against this Parliament, whose quality has worsened

¹⁷³⁸ 227. Ibid., III, 7 = Works, X, 169f. Cf. III, 12 = X, 207: “Industrial work, still under bondage to Mammon, the rational soul of it not yet awakened...”

¹⁷³⁹ 228. Ibid., III, 11 = Works, X, 196, 197. Cf. III, 15 = X, 232f: “Praying by Working, Work is Worship.”

¹⁷⁴⁰ 229. See e.g. Shooting Niagara (1867) = Works, XXX, 1ff.

¹⁷⁴¹ 230. The Present Time, Works, XX, 21, 24, 34.

¹⁷⁴² 231. Chartism (1839), VI = Works, XXX, 162f, 155ff.

¹⁷⁴³ 232. Ibid., 167.

¹⁷⁴⁴ 233. Downing Street (1850) = Works, XX, 98ff, 108, 110ff.

¹⁷⁴⁵ 234. Past and Present, IV, 2–3 = Works, X, 252, 259.

under democratization and press freedom, Carlyle proposes strengthening the Crown to strip it of sovereignty¹⁷⁴⁶ — a proposal that clearly echoes the ideas of *Young England*.¹⁷⁴⁷

Yet even here Carlyle's position differs from that of his conservative compatriots, for he does not view the strengthening of the Crown as a panacea, but rather as a provisional support on the path toward radical reform — which for him is the true and sole goal. Royal power means little without a ruling and governing-capable aristocracy, and it is the formation of such an aristocracy that matters to Carlyle. In affirming industrial, working society at its core, he is guided by the recognition that "the organisation of Labour ... [is] the universal vital Problem of the World."¹⁷⁴⁸ Given the observed decadence of the landed, *idle aristocracy*, the solution to this central problem can only be undertaken by those "who stand practically in the middle of it." The *Leaders of Industry* must become *Captains of the World* — and if they fail to embody an aristocracy adequate to the demands of the age and to put an end to the infernal chaos, then a second French Revolution, or even a series of revolutions, cannot be avoided — until nature reasserts its order.¹⁷⁴⁹ It is true that the *working aristocracy* currently serves Mammon, but Carlyle credits it nonetheless with a nearness to reality and the capacity "to reform themselves." In either case, venerable noble titles are not enough to meet the great challenges of the present; only natural selection will suffice: "Nature, a far juster Sovereign, has far terribler forceps." But if the new aristocracy wishes to overcome its own capitalist character — and capitalist society altogether — then, despite its lack of noble titles, it must possess knightly virtues, above all self-mastery and fearlessness. A new human type is to emerge, defined by patience, persistence, courage, and lucidity — one who will embody a heroic ideal of life ("man is created to fight; he is perhaps best of all definable as a born soldier") and serve as the living reference point for a cult of heroes as the moral foundation of society.¹⁷⁵⁰

This new "Aristocracy by Nature, who derive their patent of Nobility direct from Almighty God,"¹⁷⁵¹ turns toward the knightly and heroic by recognizing that supply and demand are by no means natural laws, and that "Cash Payment" is certainly not "the sole nexus of man with man."¹⁷⁵² The defense and propagation of higher ideals, alongside the organization of the world of labor, constitute the second great task of this aristocracy, which must be "a Governing Class and a

¹⁷⁴⁶ 235. *Parliaments* (1850) = Works, XX, 225, 223f; cf. *Downing Street*, same volume, 121.

¹⁷⁴⁷ 236. See above, Section 1b of this chapter.

¹⁷⁴⁸ 237. *Present Time*, Works, XX, 36.

¹⁷⁴⁹ 238. *Past and Present*, IV, 4 = Works, X, 270, 271ff, 273f.

¹⁷⁵⁰ 239. *Ibid.*, III, 8, 10, 11 and IV, 4 = Works, X, 177ff, 190, 198, 286f.

¹⁷⁵¹ 240. *Shooting Niagara*, Works, XXX, 21.

¹⁷⁵² 241. *Past and Present*, III, 9 = Works, X, 186.

Teaching Class" at once.¹⁷⁵³ the task, namely, of producing great art, which — together with religion — is to educate the people.¹⁷⁵⁴ In this way, the long-anticipated and long-desired inclusion of the artist into the new natural aristocracy can finally be realized. The artist, or man of letters, senses that his only chance to rise to the top of the social hierarchy lies in advancing the modern ideal of elite against the old conservative idea of birth and station. He is therefore anti-democratic, i.e., anti-egalitarian in orientation — but he cannot be a conservative in the proper sense unless he is willing to relinquish the freedom and the priestly role and bearing he only acquired within capitalist society, and return once more to being a court poet or jester. This is the deepest psychological and sociological reason why intellectual movements that paved the way for the Right of the 20th century could not, in fact, be continuations of classical conservatism.

Equally decisive for Ruskin's social philosophy and utopia were his concerns about the current status and future tasks of the artist. From the concrete perspective of the artist's or writer's need for power, the question of a meaningful social order can be formulated as: what must society be like for it to constitute an ideal, vast audience? In more abstract and general terms, the same question reads: in what kind of society can art and beauty flourish for the benefit of all? Posed this way, the question presupposes a necessary relationship between art and society — that is, art is just as much a social phenomenon as society, in the ideal case, ought to be a work of art. It also implies that criticism of art and criticism of society are two sides of the same coin, since both take their point of departure from the aesthetic. In the ugly and materialistic capitalist world, art cannot unfold; thus, the need for artistic creation in the fullest sense must lead to rebellion against that world and a demand for a new one. And further: if beauty consists in the spiritual or in the spiritualization of the sensual — in harmony and order — then the new beautiful world must place spirit at the top and be founded on a structured hierarchy. Loosely but essentially following Plato, Ruskin thus connects a spiritualist, anti-materialist tendency with the cult of beauty and the ideal of a hierarchical, anti-democratic social order.¹⁷⁵⁵

By linking art with religion and morality, the artist's claim to power becomes total, as he is now positioned to oversee — as artist and *ex professo* — all the decisive domains of social ideology. As with Carlyle, so too for Ruskin: the fine arts must have a noble motive, and in his view, they have only ever been great when they sought to teach something about the gods.¹⁷⁵⁶ Religion, he declares, is "the life

¹⁷⁵³ 242. Ibid., IV, 1 = Works, X, 241.

¹⁷⁵⁴ 243. Shooting Niagara, Works, XXX, 23ff.

¹⁷⁵⁵ 244. On these themes in Ruskin's thought see especially Roe, *Social Philosophy*, 149ff; Lippincott, *Victorian Critics*, esp. 56, 60, 62, 67ff; Barker, *Political Thought*, 166, 168, 173; Williams, *Culture*, 141f.

¹⁷⁵⁶ 245. *Sesame and Lilies*, III = Works, XVIII, 153.

of art.¹⁷⁵⁷ With equal emphasis, he asserts that a central function of art lies in perfecting the *moral state*.¹⁷⁵⁸ Precisely because art, religion, and morality are named, felt, and cultivated in one breath, the critique of capitalism's ugliness and disorder immediately becomes a critique of the disastrous moral consequences of its profane-materialistic worldview. To characterize the capitalist mindset, Ruskin finds no graver indictment than this: that it holds a cotton mill in higher esteem than a painting by Titian.¹⁷⁵⁹ The image of man implied by capitalist political economy demands and expects neither knightly virtues, nor strict morals, nor good education.¹⁷⁶⁰ Accordingly, the ruling capitalists are what one would expect — "the guilty Thieves of Europe, the real sources of all deadly war in it," those who have accumulated nothing but catastrophe and never fulfilled the educational role of a worthy upper class.¹⁷⁶¹ True wealth — that is, God and divine law, beautiful and healthy bodies and souls, good and pleasant things in general — is devalued in favor of hollow display and luxury. The wealth that does exist and is sought after consists, therefore, "of things suited to the capacity of harlots and their keepers."¹⁷⁶² Moreover, economic activity driven purely by profit produces "imaginary necessities and popular desires, in order to gather its temporary profit from the supply of them," with no regard for wasted time or material.¹⁷⁶³ Ruskin also finds the moral consequences of introducing machinery — especially into agriculture — deeply troubling.¹⁷⁶⁴

If moral degeneration under capitalism arises from the subordination of the aesthetic and the ethical to the economic, then Ruskin envisions a reversal of this intolerable relationship — a restoration of the true hierarchy of values. And because he sees liberal political economy as the core and epitome of capitalist thought, he believes this restoration must proceed through a confrontation with the reigning economic orthodoxy. The specific economic theories he constructed in this process are now irrelevant¹⁷⁶⁵ — and rightly forgotten. What has endured, in various left- and right-wing forms, is his demand to understand economic magnitudes as dependent on interpersonal, social relations. According to Ruskin, liberal political economy rests on principles starkly opposed to those of the

¹⁷⁵⁷ 246. Notes... (1877) = Works, XXII, 508.

¹⁷⁵⁸ 247. Lectures on Art, II–III = Works, XX, 46, 47, 73.

¹⁷⁵⁹ 248. Fors Clavigera, 7 = Works, XXVII, 128.

¹⁷⁶⁰ 249. Ibid., 45 = Works, XXVIII, 158ff.

¹⁷⁶¹ 250. Ibid., 2 and 7 = Works, XXVII, 39ff, 126f.

¹⁷⁶² 251. Ibid., 70 = Works, XXVIII, 719, 716.

¹⁷⁶³ 252. Time and Tide, XV = Works, XVII, 389.

¹⁷⁶⁴ 253. Fors Clavigera, 5, 17 and 37, 44, 58 = Works, XXVII, 85ff, 298ff and XXVIII, 21, 133, 137f, 423.

¹⁷⁶⁵ 254. See especially Munera Pulveris, Works, XVII, 129/183.

Christian religion.¹⁷⁶⁶ Moreover, it grounds itself in an anthropology centered one-sidedly on the supposed constant of *self-interest*, while ignoring the *social affections*. Its subject matter follows accordingly: it treats the production and distribution of goods and their concentration in a few hands, and thus ought to be called *mercantile economy*, not *political economy*.¹⁷⁶⁷ The role of money in capitalism produces a fictitious image of wealth and economic life, obscuring the real foundations of economic activity — land, natural resources, and labor.¹⁷⁶⁸ By eliminating these economic fictions and returning to the elementary conditions of wealth production, Ruskin wants to recover a level at which the determining influence of human relationships on economic form becomes transparent once again. If the quantities of political economy are functions of human relations, then the final goals of economic activity must be defined by the conscious aims of economic agents. Everything depends on what people want to achieve. For Ruskin, the answer is clear: the goal of economic activity, like any other, is “*the multiplication of human life in the highest standard*” — that is, the production of all that the body, soul, and spirit of the perfect human type require.¹⁷⁶⁹ The only true wealth is life itself, “including all its powers of love, of joy and of admiration”; consumption should serve this life, and production should in turn serve consumption. Thus, the decisive question for a nation is not how much labor it expends, but how much *life* it produces — for the richest nation is the one that can nourish the greatest number of noble and happy people.¹⁷⁷⁰ Real wealth, then, is marked by its *moral* character — which, incidentally, is the only thing that can justify and secure the social rule of the wealthy.¹⁷⁷¹ To be rich is therefore a kind of *office*, and the rich man — the employer — must carry out his work not with selfish motives, but as a priest or soldier would.¹⁷⁷² The worker, in turn, receives a just wage: the same amount of time and energy he has given.¹⁷⁷³ In place of greed and competition, there should be grace, generosity, joy, and harmony.¹⁷⁷⁴

What form of society, then, will result from the reversal of the current unnatural relationship between economy and ethics or aesthetics? Or rather: what kind of society is capable of realizing this reversal? Ruskin has no doubt about the depravity of the existing social order, and thus he can call himself neither a

¹⁷⁶⁶ 255. “Unto this Last”, Works, XVII, 75f.

¹⁷⁶⁷ 256. Ibid., 25ff, 44f.

¹⁷⁶⁸ 257. Fors Clavigera, 1, 2, 16 = Works, XXVII, 23ff, 34–38, 286.

¹⁷⁶⁹ 258. Munera Pulveris, §§ 7–8 = Works, XVII, 150.

¹⁷⁷⁰ 259. “Unto this Last”, Works, XVII, 104f.

¹⁷⁷¹ 260. Ibid., 52ff.

¹⁷⁷² 261. Ibid., 40ff.

¹⁷⁷³ 262. Ibid., 64.

¹⁷⁷⁴ 263. Munera Pulveris, esp. §§ 98ff = Works, XVII, 219ff.

conservative nor a liberal: the conservative “wishes to keep things as they are; and he is opposed to a Destructive... or to an Innovator.” Ruskin, however, wants to be both a destroyer (he would gladly demolish New York for aesthetic reasons) and a renewer.¹⁷⁷⁵ Capitalism’s progress has by now created a situation in which a counterrevolutionary and anti-democratic stance can no longer be equated with a refusal to *make* the world anew. Like Carlyle, Ruskin has no interest in a return to some distant past; his social vision integrates essential elements of the post-revolutionary condition. Still, he is more restrained and ambiguous about this than Carlyle. Like Carlyle, Ruskin bids final farewell to the ancient-Christian speculative ideal and accepts that a modern society must be, through and through, a working society — that work need not be drudgery and curse, but can be joy and fulfillment. Yet he qualifies this essential concession to capitalist modernity in two ways. First, due to his aversion to machinery and industry, he gives precedence to *craft* over industrial labor.¹⁷⁷⁶ Second, he imagines a close integration of *arts with crafts*,¹⁷⁷⁷ which would eliminate all vulgarity from work. Art and life are to fuse on every possible level: everything made of wood, stone, metal, or clay would simultaneously be a work of art. Artists would make houses and clothes just as farmers grow food: “for a true artist is only a beautiful development of a tailor or carpenter.”¹⁷⁷⁸

Like Carlyle, Ruskin was deeply convinced of democracy’s inability to produce good government.¹⁷⁷⁹ Even with the introduction of universal suffrage, he argued, the right to vote should *at least* not be equal. His sympathy lay with a hierarchically structured, patriarchal regime, in which the rungs of the social ladder would functionally complement one another.¹⁷⁸⁰ This paternal authority — which treats subjects like sons — is, as Ruskin writes with reference to the legal conception of the *societas civilis*, supposed to carry out the will of divine authority; otherwise, it degenerates into tyranny.¹⁷⁸¹ Still, the rich will rule over the poor — but unlike under capitalism, here the rich will earn profits *only* in order to redistribute them via various services to the poor, who on their own would be unable to make good use of such surpluses.¹⁷⁸² In Ruskin’s view, such a hierarchical patriarchalism could establish a stable and enduring state under God’s eternal law — a *state*, after all,

¹⁷⁷⁵ 264. Fors Clavigera, 1 = Works, XXVII, 14f.

¹⁷⁷⁶ 265. See Roe, *Social Philosophy*, 218, 233.

¹⁷⁷⁷ 266. Cambridge Inaugural Address (1858), Works, XVI, 177ff.

¹⁷⁷⁸ 267. Time and Tide, XXI = Works, XVII, 426; Fors Clavigera, 11 = Works, XXVII, 186 (cf. XXVIII, 440ff).

¹⁷⁷⁹ 268. Munera Pulveris, § 129 = Works, XVII, 253f.

¹⁷⁸⁰ 269. See e.g. Time and Tide, XII–XIV = Works, XVII, 377–387. Cf. Roe, *Social Philosophy*, 204ff.

¹⁷⁸¹ 270. A Joy for Ever, Works, XVI, 25, 105.

¹⁷⁸² 271. Munera Pulveris, § 146 = Works, XVII, 269.

means “the standing and stability of a thing”: an immobilism in beauty and harmony.¹⁷⁸³ Carlyle would have little to object to in Ruskin’s idea of hierarchical patriarchy as such, though he might have imagined the details differently. But as someone who still believed in the open potential of a great historical future, he would hardly have endorsed Ruskin’s immobilist ideal — or only as a remote endpoint. Carlyle affirmed, above all, the dynamic element of modern development — namely, industry — while Ruskin’s mistrust of it was insurmountable, and this had lasting effects on the character of his proposed ruling class. The land — the “healthy-giving land”¹⁷⁸⁴ — remained, for Ruskin, the irreplaceable source of wealth, in *explicit* opposition to industrial progressivism. He believed that the higher ethical education of a nation was “irreconcilably inconsistent with filthy and mechanical employments,” and so in the ideal state, not only the spiritual domain but also agriculture was to be reserved for the *upper classes*, while the *mechanical arts* were left to the less gifted.¹⁷⁸⁵

If aversion to industry places the *landed aristocracy* in the position of the ruling class, the irrevocable shift of the times nonetheless reveals itself in the fact that this landowning aristocracy is no longer conceived on the basis of the old estate system, but rather as a *modern elite*. Birthright no longer determines one’s status; instead, the individual’s participation in the upper class depends on “some kind of worth.”¹⁷⁸⁶ The just integration of individuals into the structure of the state should be based on the principle that everyone must be helped to develop whatever talents and abilities they actually possess. Envy and competition would give way to willing obedience — “as soon as there is anybody worth obeying.”¹⁷⁸⁷ Moreover, this landed aristocracy is to be a *working* aristocracy. The state distributes land to those who have “proved capacities” for cultivating it — people who, ideally, can farm it better than their own laborers.¹⁷⁸⁸ As with Carlyle, Ruskin’s idea of *elite* also ensures the inclusion of “scholars and artists” in the ruling class. Aesthetic value asserts itself not only through the fact that the utopian social design as a whole is built around aesthetic criteria, but also through the placement of aesthetic-artistic activity at the *top* of the social hierarchy. Compared to the artist, the warrior fares rather poorly in Ruskin’s scheme,¹⁷⁸⁹ and that marks another divergence from Carlyle, who gave far more emphasis to a *heroic ideal of life*. In that regard, it’s Carlyle — not Ruskin — whom the later European Right would ultimately follow.

¹⁷⁸³ 272. *Sesame and Lilies*, II = Works, XVIII, 110.

¹⁷⁸⁴ 273. *Fors Clavigera*, 73 = Works, XXIX, 14ff (cf. 410ff).

¹⁷⁸⁵ 274. *Munera Pulveris*, §§ 108–109 = Works, XVII, 233ff.

¹⁷⁸⁶ 275. *Time and Tide*, XXII = Works, XVII, 431.

¹⁷⁸⁷ 276. *Fors Clavigera*, 9 = Works, XXVII, 147ff, 153.

¹⁷⁸⁸ 277. *Time and Tide*, XXIII = Works, XVII, 438–440; *Fors Clavigera*, 22, 58 = Works, XXVII, 381 and XXVIII, 424.

¹⁷⁸⁹ 278. *Time and Tide*, IV = Works, XVII, 30ff.

c. *Action Française*

The thought-world of *Action Française* clearly takes shape under the influence of currents that shaped French intellectual life in the second half — especially the last third — of the 19th century, though (and this is crucial) its precursors were selectively received. It cannot be considered a straightforward continuation of classical French conservatism, since the latter was, at the latest, dead and buried by 1848. Comte's Catholic-inflected idea of order no longer held a specifically conservative meaning, and the longing expressed by thinkers like Taine or Renan for certain aspects of the traditional ordering function of the Church or even of the *ancien régime* and monarchy were merely symptoms — signs of the old liberal Right's unease in the face of rising mass democracy and socialism.¹⁷⁹⁰ *Action Française* shared this fear with the Orléanist Right and the old liberals, but not their loyalty to parliamentarism. It accepted the nationalist and Caesarist elements of Bonapartism, but rejected its plebiscitary elements. It retained vague corporate and estate-based memories from the Legitimist tradition, but rejected its romantic and religious leanings.¹⁷⁹¹ Its ideology also drew on figures like Fustel de Coulanges, who — without building a political theory — became a critic of democracy, a defender of aristocracy, and above all a celebrant of family, tradition, and the French past; or, more directly, on La Tour du Pin, the royalist and anti-liberal advocate of a corporatist social order. It was likewise shaped by regionalist tendencies from the last decades of the 19th century, which had turned against the republican, parliamentary, and centralizing French state.¹⁷⁹² Still, merely tracing these influences or reconstructing its intellectual genealogy doesn't suffice to explain *Action Française's* key traits — or more precisely, those of Maurras' thought — unless we consider the central motivations that, as already seen, also unlock the social-political thought of Carlyle and Ruskin. As has long been rightly noted, *Action Française* remained above all a literary and social affair,¹⁷⁹³ and its intellectual world is thus equally marked by the core impulses fundamental to political-intellectual movements as such. These impulses also shape and structure its cited influences.

As the spokesman of such a political-intellectual movement, Maurras develops a social model shaped in two ways by the outlook of the modern intellectual: it emerges as the idealized counter-image to everything he detests, and it arises from the sense that the actual development of society threatens both his social status and his self-understanding. Logically and psychologically, Maurras starts from the

¹⁷⁹⁰ 279. Roche, *Idées*, 69ff.

¹⁷⁹¹ 280. Rémond, *Droite*, 173ff.

¹⁷⁹² 281. On these thinkers and tendencies, see Roche, *Idées*, 83ff, 105ff, 110ff.

¹⁷⁹³ 282. Gurian, *Integral Nationalism*, 73.

opposition of spirit vs. money, or ethos vs. money — from the concrete situation of the intellectual who, as the bearer of higher values, resists the corrupting influence of a vulgar-materialistic society and seeks to assert his identity within it. A gulf opens between him and the ruling plutocracy: *La réputation de l'écrivain est perdue... Journalistes, poètes, romanciers, gens de théâtre font un monde où l'on vit entre soi, mais c'est un enfer. Les hautes classes ... se montrent froides envers la supériorité de l'esprit.*¹⁷⁹⁴ But it's not only plutocrats who show indifference to intellect; the intelligentsia itself is entangled in the dark machinery of cultural industry. Lacking the financial means to compete with big capital, it is defeated — even reduced to *ancilla plutocratiae*, seemingly guiding public opinion, but in truth directed by it, deceiving the masses on behalf of stateless capitalists or even foreign powers.¹⁷⁹⁵ This social degradation and moral humiliation becomes all the more intolerable since, now of all times, the intellectual has a singular task: *une faculté surhumaine, le don féerique de créer ou de déterminer une belle chose.* He is to decide the struggle between money and sword; and when, *devenue le génie sauveur de la cité, L'Intelligence se sera sauvée elle-même de l'abîme ou descend notre art déconsidéré.*¹⁷⁹⁶ Yet Maurras, like Carlyle and Ruskin, does not go so far as to hand over the government of the future healthy society directly to the *intelligentsia en masse*. During the dictatorial transition, it will act as the avant-garde; but within the *hiérarchie naturelle de la nation*, it will not formally occupy the top position — though its very high standing *dans l'échelle des valeurs morales* will more than compensate.¹⁷⁹⁷

The social degradation of the intellectual, in Maurras' eyes, goes hand in hand with the decadence of culture, poor taste, and vulgar manners.¹⁷⁹⁸ This cultural critique is directly linked to his critique of parliamentarism and democracy, since the force weighing down on the intellectual is the same one that dominates parliamentary democracy as a whole: *"c'est l'Argent qui fait le pouvoir en démocratie".*¹⁷⁹⁹ Money rules in democracy. But the influence of money is covert, impersonal, leveling, and corrosive — and accordingly, the operations of democracy and parliamentarism reflect this: the stage is governed by invisible influence, by self-interest and partisanship, leading to the dissolution of any stable force or firm conviction. In short, democracy embodies anarchy and lives anarchically — nearly at random — without a respectable and responsible sovereign, without genuine representation or authority.¹⁸⁰⁰ Atomization and amorphousness, therefore, cannot be remedied without abolishing democracy itself, since they stem from the

¹⁷⁹⁴ 283. Romanticism, 81

¹⁷⁹⁵ 284. Ibid., 58ff.

¹⁷⁹⁶ 285. Ibid., 33, 34.

¹⁷⁹⁷ 286. Ibid., 86

¹⁷⁹⁸ 287. Ibid., 29.

¹⁷⁹⁹ 288. Mes Idées, 161.

¹⁸⁰⁰ 289. Ibid., 169ff, 174ff; Enquête, 14ff

democratic principle of equality: if organization and ordered structure presuppose differentiation and hierarchy, then leveling must inevitably lead to disorder, disintegration, and ultimately the death of the social body.¹⁸⁰¹ The monstrous process of centralization fostered by the workings of parliamentarism is not the antithesis but the confirmation of this democratic disarray. Ministers and deputies bind voters to themselves through bureaucrats whom they themselves have appointed, creating a class of intermediaries and parasites who live off the state and have a direct interest in the bloating of the state apparatus.¹⁸⁰² Democratic centralization thus yields two consequences, which for Maurras only seem contradictory. On the one hand, as the state becomes more centralized — that is, more bureaucratized and depersonalized — the power of money increases, since it is easier for an anonymous force like money to influence or control anonymous institutions.¹⁸⁰³ On the other hand, the expansion of the state strengthens the egalitarian tendencies inherently tied to centralist bureaucracy — tendencies that eventually spill over into society and culminate in socialism: “*le socialisme d’Etat sort du cœur et des entrailles de la démocratie ... L’égalité démocratique, déjà réalisée dans l’État, se poursuivra dans la société... La démocratie politique fait la démocratie sociale.*”¹⁸⁰⁴ In this sense too, following classical conservative thinkers, the lineage of egalitarian democracy from liberalism can be asserted.¹⁸⁰⁵

Confusion and the dangers of democratic disorder are countered by an ideal of order. This ideal is meant, first, to embody steadfastness in contrast to the unpredictable mobility of liberal-democratic progress; second, to relieve the uncertainty and anxiety that overwhelm the cultivated individual — Maurras, for instance — in the face of spreading ugliness and barbarism.¹⁸⁰⁶ By its nature, then, this ideal of order is rooted more in the aesthetic-literary than the political. It primarily expresses the rejection — by an aesthete shaped by classical ideals of beauty — of democratic vulgarity and anarchy. The critique of disorder and ugliness in culture clears the path for the critique of democracy as anarchic or tyrannical politics.¹⁸⁰⁷ But this transfer of aesthetic criteria into the political realm — where the demand for political order emerges from the idea that beauty itself is order, hierarchy, and harmony — is possible only because of a core assumption: *beauty is order*. Thus, Maurras’ aesthetic stance against Romanticism and for Classicism acquires direct political relevance. He argues there is a striking analogy between the freedoms allowed to the artist in classical aesthetics and those granted

¹⁸⁰¹ 290. Enquête, 117, 119: “Democracy is evil. Democracy is death.”

¹⁸⁰² 291. Ibid., 28, 218f; Mes Idées, 178ff

¹⁸⁰³ 292. Romanticism, 77.

¹⁸⁰⁴ 293. Mes Idées, 202ff.

¹⁸⁰⁵ 294. Ibid., 147ff.

¹⁸⁰⁶ 295. Gurian, Integr. National., 22f; cf. Nolte, Fascism, 143ff.

¹⁸⁰⁷ 296. Cf. Weber, Action Française, 9, 77.

(or denied) by classical politics.¹⁸⁰⁸ In other words, both artistic creation and political action should be subject to rules and a specific notion of order. True art, like true politics, is strict and disciplined — it finds grace in strictness and freedom in discipline. By contrast, Romanticism is the aesthetic expression of revolution, just as revolution is the political expression of Romanticism. Both reject objective rules and supra-individual standards, idolize unrestrained individuality, and equate freedom with personal caprice — a freedom they cannot actually realize, since the individual cannot create the world *ex nihilo* but must adjust to objective realities, consciously or not.¹⁸⁰⁹ Moreover, according to Maurras, the Romantic and revolutionary spirit is a product of France's national enemy — Protestant Germany — and was introduced into France as a foreign infection by Rousseau, to destroy the classical synthesis embodied in the *ancien régime*, especially under Louis XIV, which Maurras sees as the second coming of classical antiquity. Even Romantic enemies of the Revolution, like Chateaubriand, in truth served it.¹⁸¹⁰ The classical politics of the *ancien régime*, which followed the *procédé logique* and left the *procédé intuitif* to animals and barbarians, continues in the present through Catholicism and thinkers like Comte, who were influenced by the Catholic idea of order. Maurras demands an alliance of Catholic theologians and atheistic positivists against "*l'esprit de l'anarchie mystique*"¹⁸¹¹ — and in this, he reveals how far removed he is from classical conservatism. He not only rejects its fundamentally anti-intellectual epistemology and anthropology, but he fuses, from a paganizing stance, the *ancien régime* with classical antiquity, and blends a pre-scientific vision of order with a concept of natural law and regularity that only entered the world through 19th-century positivist scientism.

Maurras, as an atheist and paganist, also breaks with other central principles of classical conservatism — such as the unity of ethics and politics, or of the private and public spheres¹⁸¹² — even when he claims to uphold conservative values, he fails to preserve their traditional meaning. He wants, for instance, to base his political reflections on empirical reality rather than on a *tabula rasa*;¹⁸¹³ yet he overlooks that he cannot really afford to do so. This conservative maxim only made sense as long as empirical reality largely aligned with conservative ideals. Once reality had been radically reshaped by the principles of 1789, conservatives were forced to turn away from it — practically to start from scratch — since they were no longer defending the existing order, but rather trying to impose an ideal that now stood outside of reality. Maurras considers the social and political conditions

¹⁸⁰⁸ 297. Romanticism, 18.

¹⁸⁰⁹ 298. *Ibid.*, 12ff

¹⁸¹⁰ 299. *Ibid.*, 4ff, 245ff.

¹⁸¹¹ 300. *Ibid.*, 270, 111, 288.

¹⁸¹² 301. *Mes Idées*, 125, 127.

¹⁸¹³ 302. *Ibid.*, 109.

under capitalist democracy intolerable, and thus must call for a radical rupture — to be carried out according to a preconceived plan. This rupture is dictatorship, necessarily involving repression and retribution. Only after consolidating the new regime would a phase of *gouvernement normal* follow.¹⁸¹⁴ At the head of both the transitional dictatorship and the regular government is to stand a hereditary monarch: only personal and hereditary authority, Maurras claims, guarantees openness, accountability, and stability. Even in its “normal” form, royal government retains dictatorial-Caesarian traits, albeit tempered by paternalism and the institutionalized autonomy of corporatively represented interests. To distinguish this from tyranny, Maurras invokes the old corporatist distinction between *absolu* (meaning independent but also limited) and *despotique*.¹⁸¹⁵ Yet his break from classical conservatism also shows in his concept of kingship. A dictatorship meant not to defend a threatened order but to *create* a new one could only appear to classical conservatives as a revolutionary — i.e., sovereign — dictatorship. For them, a king could only act dictatorially in a *commissarial* sense, representing already-dominant social forces. But Maurras’ king emerges from a social vacuum and is to create the entire social order from scratch — no supporting forces are specified. The dictatorship thus floats in midair, and so does the idea of kingship itself, especially since it lacks any metaphysical or legitimist grounding. In its place is an instrumental and institutional justification: royal Caesarism is simply the most effective and appropriate form of government from the standpoint of superior national interest. The personal bond and the vassal-like relationship to the king — which, for classical conservatives, remained palpably intense despite corporatist pride — are entirely absent from Maurras’ thought and psyche. His royalism, like his political Catholicism, remains cerebral, devoid of the inner warmth of living tradition.¹⁸¹⁶ The steadily deteriorating relations between *Action Française* and the royal pretender are also linked to this¹⁸¹⁷ — though ultimately they stem from the hopelessness of royalism in all its forms.

Maurras’ solutions to the aristocracy problem — a theoretical hurdle for all anti-democratic thought — further underscore his distance from classical conservatism. He knows, of course, that his aristocracy, like his ideal political and social order, must be *created*. Yet he never explains what existing human or social material it is to be forged from; its formation is simply declared a key task of monarchy.¹⁸¹⁸ In an early phase, Maurras gives precedence to the *aristocratie de*

¹⁸¹⁴ 303. Enquête, 538.

¹⁸¹⁵ 304. Mes Idées, 275, 279f, 282, 283. On the mentioned distinction, see above Chapter II, Section 3b.

¹⁸¹⁶ 305. Cf. Gurian, *Integral Nationalism*, 92; Rémond, *Droite*, 172.

¹⁸¹⁷ 306. Details in Osgood, *French Royalism*, esp. 129ff, and Weber, *Action Française*, 205ff.

¹⁸¹⁸ 307. Enquête, 141

*naissance*¹⁸¹⁹ — without noting the glaring contradiction between consciously *creating* an aristocracy and positing the *superiority* of inherited rank. This contradiction continues to operate beneath the surface and ultimately results in the displacement of the traditional concept of aristocracy by the modern notion of *elite* — though this remains implicit, even veiled, in Maurras' theory of authority. He claims authority is "given by birth," that some people simply have it while others don't. It belongs to the same category of innate qualities as beauty or genius and is the basis of the right to rule — a right that still must be exercised through competent work.¹⁸²⁰ Clearly, this is no longer a *traditional* understanding of birthright. Traditionally, one had birthrights due to familial status and lineage. But Maurras' aristocrat possesses birthright *because* he is born with exceptional traits that distinguish him from the vulgar masses. This implies, logically, that such "aristocrats" could emerge from *any* social stratum, and that they might feel compelled to assert their superiority — forcing a continual renewal of the upper class and ultimately converting the hereditary aristocracy into a *modern elite*. In his effort to counter the democratic myth of equality with a thorough theory of inequality — one that would biologically certify each aristocrat's natural right over the *vulgus profanum*¹⁸²¹ — Maurras ironically assumes the framework of hereditary aristocracy. Yet the elite concept, while hostile to democratic egalitarianism, also carries an egalitarian implication: any gifted individual, regardless of background, can *rise*. So Maurras, caught between two equally strong polemical needs — the desire for a modern (naturalist-biological) anti-egalitarianism, and the attack on plutocracy via appeals to tradition, duration, and stability — is prevented from embracing the elite principle openly. A consistent acceptance of the elite concept would force him to acknowledge plutocratic rule as legitimate, even *ideal*. In fact, Maurras himself calls democracy an *oligarchy*¹⁸²² — effectively reducing the much-lamented equality to mere façade while affirming inequality as a law of nature. But if inequality is natural, then by his own logic one cannot claim that this natural law somehow ceased to function after 1789.¹⁸²³ In other words, the regime of equality he denounces might *already* be implementing his elite ideal — only with the wrong elites in charge.

The aesthetic and literary character of Maurras' thought is perhaps most evident in his ideal social model. This model isn't centered on the concrete realities or structural tensions of a highly industrialized society; instead, it remains largely formal—concerned with intellectually and fundamentally *ahistorically* working out a structure whose balance and harmony, as drawn on paper, are taken to be

¹⁸¹⁹ 308. *Ibid.*, 228

¹⁸²⁰ 309. *Mes Idées*, 40, 42, 48.

¹⁸²¹ 310. *Ibid.*, 115, 97.

¹⁸²² 311. *Ibid.*, 172.

¹⁸²³ 312. *Ibid.*, 156.

sufficient for resolving practical issues. The aesthetic perfection of the construction is thus believed to hold, in and of itself, a kind of magical force — as if its sheer presence could dissolve all real-world frictions or deficiencies. This aesthetically and politically satisfying order in the state is summarized in Maurras' *formule constitutionnelle*: "Les libertés, en bas — L'autorité, en haut."¹⁸²⁴ In this, he tries to reconcile two incompatible positions — temporally and logically distinct: the *pre-revolutionary* ideal of decentralized local liberties and the *modern* demand for a strong central executive. This contradiction has been noted before,¹⁸²⁵ and Maurras answers it only with assertions: that decentralization and local or corporative freedoms won't dissolve the state *as long as* the king remains in command of a unified army and of all major public service institutions.¹⁸²⁶ But that's precisely where the difficulties begin. He never clarifies how far the king's central authority would reach into society¹⁸²⁷ — for instance, whether the fundamentally autonomous and even self-taxing corporative bodies could be *compelled*, if need be, to fulfill financial or civic duties toward the general public as represented by the state. Maurras' constitutional schema appears functional only *if* a shared consensus exists — but it offers no mechanism for handling conflict. That's not an accident: it stems from the *aesthetic* nature of his vision, which is not juridical or sociological. We'll have to return to this point when analyzing the problems of his corporatism.¹⁸²⁸ For now, what must be noted is another weak point in his argument — one that reveals a deeper contradiction running through his position.

Although Maurras rejected liberal individualism and upheld the *association* as the smallest valid social unit, he nevertheless adopted the liberal *distinction between state and society*. While he acknowledged the occasional necessity of state intervention in the economy, he viewed it with unease and insisted that, in the normal case, the state should serve society. The state, in his view, is secondary to society — its "*collectivités autonomes*," which he calls the true, immortal substance of the nation, precede the state in time and may well outlast it.¹⁸²⁹ This prioritization of society over the state is *not* liberal in intention. Rather, it is a modern reformulation of the *pre-state ideal*, framed in liberal terms. But the old *societas civilis* was long dead by then, and applying its conceptual skeleton to a liberal-capitalist society necessarily altered its meaning. For example, Maurras envisioned one of the monarchic state's chief roles as to "garantir les propriétés contre la Révolution qui les menace."¹⁸³⁰ By the time he was saying this, it could only mean *protecting the*

¹⁸²⁴ 313. Enquête, 552.

¹⁸²⁵ 314. See e.g. Rémond, *Droite*, 178ff; Weber, *Action Française*, 524.

¹⁸²⁶ 315. Enquête, 326.

¹⁸²⁷ 316. *Ibid.*, 543.

¹⁸²⁸ 317. See below, Section 4

¹⁸²⁹ 318. *Mes Idées*, 119, 121, 122; Enquête, 37.

¹⁸³⁰ 319. Enquête, 25

plutocracy he otherwise despised. His nostalgic favoritism for agriculture and landowning, expressed from the safety of his desk, didn't change the actual effect of his arguments: opposition to political strikes, resistance to shortening the workday — in short, alignment with capital against labor.¹⁸³¹ Just like his treatment of aristocracy and elites, these ideas reveal a deep ambivalence toward capitalism.

¹⁸³² Broadly speaking, Maurras oscillated between two incompatible models: a corporatist-royalist monarchy and a right-wing dictatorship whose function would be to defend (chiefly capitalist) property and the liberal separation of state and society against socialism.¹⁸³³ Because of this ambiguity, Maurras ultimately satisfied neither the broader bourgeoisie nor many of his initial admirers — those who were beginning to think about industrial society's problems in more modern categories, and who eventually turned to fascism or National Socialism for answers.¹⁸³⁴ Maurras managed to appeal only to parts of the small, largely provincial bourgeoisie, caught between "Jewish" high finance and the socialist masses — and from this stratum, he drew some of his financial backers.¹⁸³⁵

One reason Maurras glossed over the gaps and contradictions in his social vision so casually was his belief that the overarching national idea — his *integral nationalism* — would ultimately harmonize all partial class conflicts in the name of the higher national interest. This idea, he thought, could instill a common spirit and will in all members of the polity, regardless of their place in the social hierarchy, fusing the nation together through shared destiny. When he proclaims: "*Les nations avant les classes. Les nations avant les affaires*",¹⁸³⁶ he breaks once more with classical conservatism, which had always feared the egalitarian thrust of the modern national idea and preferred a corporatist, hierarchical ideal instead.¹⁸³⁷ At the same time, this phrase gave him a rhetorical bridge to France's dominant political language — which, for historical reasons, had long embraced nationalism from both left and right.¹⁸³⁸ Yet Maurras, loyal to his aristocratic convictions, wanted a nationalism unsullied by democratic, plebeian, or plebiscitary elements. And here he trapped himself again. He aimed to make nationalism the strongest force of social cohesion — yet denied it precisely what made it effective: its mass appeal and egalitarian momentum. He could not grasp that in the age of total mobilization, nationalism had become a revolutionary force of leveling — and that a half-hearted, aristocratic version of it no longer had the capacity for broad social

¹⁸³¹ 320. Ibid., 35ff

¹⁸³² 321. Cf. Nolte's comments, *Fascism*, 163

¹⁸³³ 322. On this dictatorship concept, see below 4c

¹⁸³⁴ 323. Osgood, *French Royalism*, 155

¹⁸³⁵ 324. Weber, *Action Française*, 241f, 263.

¹⁸³⁶ 325. *Mes Idées*, 258, cf. LX.

¹⁸³⁷ 326. See above Chapter III, Section 4b

¹⁸³⁸ 327. See Rémond, *Droite*, 161ff.

integration. Maurras' nationalism thus shared the fate of his broader intellectual project: internally conflicted, historically tone-deaf, and increasingly outmoded. His positions often seemed like affectations of high-minded literary posturing — to be taken seriously or not — and at times lapsed into operetta, especially when tied to still-lingering Legitimist fantasies. And yet, to the extent that his ideas (along with others) influenced modern mass movements like fascism and National Socialism, they acquired a certain historical relevance — albeit a marginal one.

d. "Conservative Revolution"

Compared to the English or French developments, it might seem that the ideas of (right-wing) political intellectual movements in Germany were more persistent and influential. This is an optical illusion — due not only to a superficial familiarity with English and French intellectual history, but just as much to the ingrained habit of interpreting German intellectual history through the lens of National Socialism. If these ideas did achieve temporary political influence in Germany, it wasn't due to some special affinity with the so-called "German" or "Prussian spirit" or "Sonderweg," as the victors' ideology would have it, but rather because of the uniquely paradoxical situation that radicalized large segments of the bourgeoisie after 1918. Significantly, as literary figures became the spokesmen of this bourgeois radicalization, the aestheticizing aspect of their constructions faded, while commentary on immediate political and economic issues came to the fore — often still under a programmatic or even ideological guise that retained traces of their initial intellectual ambition. The decisive factor in this encounter between politicized writers and a radicalized bourgeoisie was the ideological needs of the latter, which gave the former greater publicity, but also demanded concessions in return. The "Conservative Revolution" — that ambiguous catchphrase — was fundamentally shaped by this bourgeois radicalization. It gave form to a fusion of conservatism and liberalism that, at least in the minds of the theorists of a "belated nation," appeared to reflect the triumph not of the bourgeoisie and liberalism, but of the "Junker reaction" and "conservatism." In reality, parts of the bourgeoisie did not turn to "conservative" ideas because they were under the social pressure of a stronger "reaction," but simply because the German post-1918 situation posed real obstacles to a wholesale adoption of "Western" parliamentarism — obstacles rooted largely in the postwar context, not pre-1914 internal developments. It is a mistake to reify ideas, to treat them as metaphysical entities rather than weapons. To infer from the spread of antiparliamentary or "anti-Western" positions within the bourgeoisie that old Prussian conservatism was socially dominant is to misread the scene. Under identical class composition, Germany could very well have become liberal-parliamentary in the "Western" sense — but not under the same internal and above all external conditions. Without defeat *at the hands* of liberal-parliamentary Western powers, and without Versailles, the "revolutionary" component of the "Conservative Revolution" — that is, its ideological reflection of

bourgeois radicalization — would likely have vanished. The fusion of conservatism and liberalism in reaction to socialism would have taken another, more “Western” form¹⁸³⁹ — and indeed, there were noteworthy tendencies in this direction even in adverse conditions.¹⁸⁴⁰ That capitalist forces remained socially dominant despite the circumstances is already evident from how even the most “reactionary” political groups during Weimar staunchly defended economic liberalism. Their partial rejection of political liberalism and “Western” parliamentarism does not prove that they were driven by Junker reaction or traditional conservatism. Rather, they demanded an “authoritarian” state not *as conservatives* seeking to *halt* capitalist development, but — and this is crucial — *as modernist interest groups* wishing to harness the state for their own ends, perhaps in coalition with others. After all, in other countries that followed different, non-German paths, threatened bourgeois classes also sought their salvation in the “authoritarian” state. It is only from the viewpoint of “progressive,” “liberal,” or “democratic” prejudices (in the moral sense of those terms) that authoritarianism or dictatorship can be equated with conservatism *as such*. But in a scholarly investigation, such value-laden identifications only sow confusion.

The radicalizing paradox for the German bourgeoisie did not lie in the fact that their long-feared and hated social-democratic arch-enemy suddenly sat at the helm of the state; on the contrary, it's likely that — *ceteris paribus* — the moderation of the Social Democrats, i.e., their lack of truly revolutionary zeal, pleasantly surprised the bourgeoisie and could have won them over to social concessions and cooperation within the framework of parliamentarism. What truly had a paradoxical and radicalizing effect was the postwar situation: that the German bourgeoisie now found itself subjugated, exploited, and humiliated by the bourgeoisie of the victorious liberal-parliamentary nations — those very nations that had waged war under the banner of the noblest liberal and democratic ideals. This perception is what blocked rapprochement with the already negotiation-prone Social Democrats. For the *right-wing* bourgeoisie — afraid of Bolshevism and desperately seeking rhetorical ammunition against all shades of the Left — the most effective propaganda tactic was to conflate the left-wing threat with the foreign catastrophe, portraying the latter as the result of the German revolution and branding every conciliatory gesture by the Social Democrats toward the victors as treason. This strategy only worked because the *national question* had truly become central. Under normal foreign policy circumstances, it's conceivable that the so-called “totalitarian danger” from the Left would have been met with a

¹⁸³⁹ 328. Cf. Schwierskott, Moeller, 81.

¹⁸⁴⁰ 329. See above, Section 1d of this chapter. In the same direction points the approval of the Weimar system by “conservative” representatives of the educated bourgeoisie (on them see Klemperer, *New Conservatism*, 112ff) as well as the attitude of some journalists such as Quabbe or Ullmann, associated with the “conservative revolution” (see our remarks on the forerunners of neoliberalism from the Weimar era in the final paragraphs of this section).

defense of those “Western” liberal freedoms which now, to many segments of the bourgeoisie, seemed nearly as repulsive as Bolshevism itself. But this propaganda gain came with a cost: the radicalized bourgeoisie found itself in a bind. It had to denounce capitalism — or at least its “Western” form — at every turn, while simultaneously toying, at times sincerely and at times cynically, with Bolshevism. In extremis, it hoped to ally with all “proletarian” nations — meaning those exploited by the West — as a new geopolitical support and outlet for its own economic capacities. At the same time, it sought to prove its essential moral superiority over the “materialist” Western bourgeoisie through corporatist schemes and völkisch-national sentiment. This contradiction, however, also provided a convenient way out: distancing from “Western liberalism” allowed for the glorification of authoritarian measures to resolve the political crisis. In other words, the weapons forged to combat the *internal* enemy were cast in the struggle against the *West*.

The assumption would be false that hostility toward the “West” was merely fabricated or feigned to better combat the internal enemy. On the contrary, that hostility was genuine and elemental, because the bourgeoisie that felt it had indeed been struck at its most vulnerable point: it had been ruthlessly crushed by its Western class peers and cast out as a pariah from the community of the wealthy and civilized. In other words, it had experienced capitalist plunder firsthand — and *that* experience, precisely *that*, was the most difficult to digest. Its material interests suffered severely, and the even greater suffering of the starving masses offered no real consolation. Outward solidarity with the masses was necessary for a display of national unity and dignity against the “West,” yet these same masses were secretly loathed and feared — because their suffering, regardless of who caused it, could erupt at any moment into real danger. The radicalized bourgeoisie stood, terrified, suspicious, and utterly tense, between the Scylla of the domestic proletariat and the Charybdis of Western capitalism, lashing out at the internal enemy all the more violently because it felt impotent against the external one. The nature and intensity of its turn against liberalism and democracy can’t be properly grasped if we only — and one-sidedly — focus on internal class antagonisms, while ignoring the fact of defeat and exploitation by foreign capitalism and liberalism. The struggle against the internal red threat might explain the appeal of authoritarian constitutional ideas among the right wing of the bourgeoisie, but it doesn’t explain why this break with political liberalism was so tightly bound up with nationalism, völkisch ideology, and even anti-capitalist slogans. That’s the central phenomenon to be explained when interpreting the “conservative revolution” in its specificity and complexity. For this current, the national question remains central — not merely as a pretext for internal power plays, but due to its objective, pressing relevance. That’s why bourgeois criticisms of capitalism always link back to the national question. As Zehrer put it: “A national Germany that seeks its independence and freedom can never be based on capitalism... Nationalism and

capitalism can only be reconciled in a victorious nation.¹⁸⁴¹ And Stadtler: “German socialism... is the declaration of war by an oppressed people against the capitalism of the victorious states.¹⁸⁴²” When a publicist close to major capitalist circles invoked the term “socialism” approvingly, it reflected not so much a factual situation as a tactical necessity of the moment. Yet that quote perfectly captures the context and historical uniqueness of the “conservative revolution.” When victorious foreign capitalism oppresses the defeated native bourgeoisie, the latter seeks moral self-justification — and more effective propaganda — by donning a “socialist” identity or mask, which it now more than ever equates with the national cause. In doing so, the deployment of “conservative” ideas becomes useful — even unavoidable.

This usage, then, does not necessarily stem from the continued social or ideological dominance of the *Junkertum* over the bourgeoisie — especially since the core themes were largely launched by bourgeois literati — but is readily understandable in light of the complex position of the industrial-capitalist bourgeoisie in the Weimar period. A similar development could just as easily have taken place in France or England under comparable conditions; there was certainly no shortage of ideological constructs or distant traditions and legends to draw upon. The ideology of the radicalized German bourgeoisie revolved around three main themes, each with a notable prehistory — developed by politically inclined writers drawing loosely on Lagarde’s *völkisch* ideas, Nietzsche’s elitism and cultural critique, and Social Darwinism, and spread via murky ideological currents such as the youth movement. These themes often emerged through seemingly apolitical concerns — love of the “higher” and corresponding contempt for the vulgar masses; love of the “authentic” and “primordial” and an idealized *Volkstum*, including mythological archetypes, along with disdain for the city, money, and capitalist society in general; love of the “heroic” and a romanticized view of struggle and sacrifice, etc. Given the centrality of the national question after 1918, it was natural for nationalism to top the agenda. And a *völkisch* coloring of that nationalism was practically unavoidable: any call for national self-assertion had to be underwritten by a claim that the nation possessed an irreducible, inexhaustible essence — a unique and irreplaceable identity that formed the source of its vitality and will to survive. The *völkisch* idea grounded national identity in a deep irrational or transrational existential substratum, and it signaled to all enemies that, especially in such unfavorable circumstances, the cohesion of this nation must be formidable — because its national essence, flowing in the blood, transcended class divisions and outlived changes in social systems.

From the idea of the nation, it was an easy step to the second major theme of the “conservative revolution”: the critique of capitalism and liberalism. For the nation, grounded in *Volkstum* and identical with it, represented a fundamentally

¹⁸⁴¹ 330. Einkreisung, 766

¹⁸⁴² 331. Nationalisierung, 419.

different socio-historical entity from the liberal-democratic nation of the West — that artificial construct made up of equal, abstract, and disconnected atoms, held together not by mystical or mythic forces but by cerebral humanistic ideals. The dissolution of nation and *Volkstum* in the West was blamed on unbridled capitalism — on the reign of money, materialism, and eudaimonism; on the soulless massification and massive soullessness. In contrast to the Western liberal capitalist who fostered, exploited, and embodied the decay of people and culture, the German entrepreneur, according to the “conservative revolutionaries,” was to distinguish himself by orienting his actions toward higher spiritual values — those sustaining the life of nation and *Volkstum*. Accordingly, the organization of economic life should mirror the national-*völkisch* unity of blood and spirit, grounded in the organic and corporative principle. This, however — and here we reach the third major ideological theme — must under no circumstances entail egalitarianism, the hallmark of degenerate liberalism. Against massification, leveling, and vulgarization stands the idea of an elite — conscious of its quality and of its special proximity to the higher national values, and thus authorized to govern *authoritatively*. The construction of the “authoritarian state,” which we will examine further, was the political and juridical articulation of this elitist principle. This elite idea also connects with other aspects of radicalized bourgeois thought. In terms of the sensitive national question, it meant that the elite must lead the nation and the people in their struggle for self-assertion. Translated into a world-historical and ethical register, it implied that elites exist because the perpetual struggle raging throughout history demands natural selection — and that, given the omnipresence and inevitability of this struggle, no other realistic ethical stance remains than the ideal of a heroic life.

The question, then, is to what extent and in what sense the core ideological themes — *völkisch*-tinged nationalism, cultural and anti-capitalist critique, the vision of a non-capitalist social order, elitism, and the heroic life-ideal — together form an ensemble that can meaningfully be called “conservative.” The first thing to note is that this ensemble only rarely appears in anything like a coherent form. Typically, the thought of the so-called *conservative Revolution* remains fragmentary, and these fragments are arranged within conceptual trajectories shaped by specific historical, even day-to-day political, concerns. The *conservative Revolution* was not a well-defined ideology pulled out of a drawer in the wake of the 1918 catastrophe to explain the past or guide the future. Rather, it was the mood of a radicalized bourgeoisie — forged by a singular national situation — that brought various, mostly preexisting, motifs into a loose constellation. Even then, this constellation never achieved any real intellectual coherence. General or foundational questions were rarely addressed in theoretical terms. Instead, they were treated on a journalistic or, at best, literary level — always with an eye to the historical moment. The point of departure wasn’t abstract worldview or socio-political theory, but the national concerns of Germany — a nation suspended between East and West, between Communism and Capitalism, between defeat and rebirth. In that sense,

the questions raised by the *conservative Revolution* were quintessentially German, and while the context has changed, their urgency has not entirely faded.

The close link between the *Konservative Revolution* and Germany's national anxieties already marks its first break with classical conservatism, which envisioned an order — however locally inflected — as universal, grounded in the divinely sanctioned legal conception of the *societas civilis*. Within the Christian community, no single nation had a particular world-historical mission. The *völkisch* coloration of nationalism also clashed with classical conservatism. Though often deployed against liberal atomization, the *völkisch* idea arose precisely during the dissolution of classical conservatism and contained essential elements that ran counter to the aristocratic-conservative view of an organically hierarchical community. Already with Lagarde, the primacy of the *völkisch*-conceived nation signifies not only a radical break with the traditional dynastic conception of the nation, but beyond that, a scarcely veiled elimination of the old estate-based hierarchical priorities, since now the nobility had to stand in the service of the overarching and superior *völkisch*-national idea, and was only permitted rights for the fulfillment of the duties arising therefrom—something which, incidentally, also applied to the state as a whole (and thus also to the crown).¹⁸⁴³ Moreover, the historical perspective shifts drastically here, for a nation that appears as a dynamic force, as a collective and thereby intensified source of energy and readiness for action, “does not live from the past but from the future”.¹⁸⁴⁴ Accordingly, Lagarde also turns the old concept of conservatism on its head, and in his future-orientation demands, “in order to be able to be conservative, conditions are required which are worth conserving.”¹⁸⁴⁵

This formula taken up by Moeller van den Bruck (“only that which is worth preserving may be conserved”) signals a second major break between the *conservative Revolution* and classical conservatism. Faced with the scale of the German catastrophe, the *conservative Revolution* placed its hopes not in organic growth — a fundamental axiom of classical conservatism, even when practically suspended by calls for dictatorship — but in rupture.¹⁸⁴⁶ Nor could it adopt the idea of progress, which had become the banner of its liberal enemies in the West and the Bolsheviks in the East. The theoretical escape was to project the *heroic ideal* into a cyclical philosophy of history: the rise and fall of eternally contending nations. Into this profane schema flowed the usual antinomies — vitality vs. decadence, elites/Caesars vs. masses, blood vs. money, culture vs. civilization — inherited, directly or not, from earlier writers and thinkers. These themes had indeed appeared in classical conservative thought but within a very different

¹⁸⁴³ 332. Deutsche Schriften, 283ff, 326, 349.

¹⁸⁴⁴ 333. Ibid., 225.

¹⁸⁴⁵ 334. Ibid., 8

¹⁸⁴⁶ 335. Freund, Kons. Harakiri, 41ff; cf. Schwierskott, Moeller, 157.

frame: pessimism about history never questioned divine providence or embraced pagan immanentism. On the contrary, traditional conservatives were overtly hostile to any kind of naturalism.¹⁸⁴⁷ So these motifs weren't reinterpretations of classical conservatism — they were *new*, spiritually deracinated. And their origin owed little to the nobility and its ideologues; the *bürgerlich* or *kleinbürgerlich* element dominated the intellectual circles of the *conservative Revolution*, just as it did among the aesthetes of the Right in England and France.¹⁸⁴⁸

We might generously grant the label "*revolutionary*" to the *conservative Revolution* if we take its slogans at face value — it did indeed seek a rupture with the present and a genuine new beginning. But if it's true that what remained of classical, historically grounded conservatism were only fragments of a shattered frame of reference,¹⁸⁴⁹ then we must ask: what, precisely, was *conservative* about it? More concretely: if conservation implies opposition to certain changes or "progress," which specific changes was the *conservative Revolution* resisting? It had a dual polemical thrust: *Conservative* meant anti-communist — the nation, not the class, was its organizing principle, so it could never reconcile with communist internationalism. Even those nationalists unbothered by Bolshevik anti-capitalism rejected collectivism and planned economies. *Conservative* also meant anti-liberal — but not in the economic sense. The liberalism it opposed was social and political: atomized individualism, egalitarian mass democracy, cultural vulgarity, and the reign of materialist, utilitarian values at the expense of spiritual and cultural ones. And here lies the key contradiction: while they lambasted political and social liberalism, *most* of these so-called conservatives had little quarrel with economic liberalism. On the contrary — they often upheld it. This disjunction — between cultural anti-liberalism and economic liberalism — foreshadows the neoliberal "conservatism" of the postwar period. But in the *conservative Revolution*, it remained obscured beneath layers of nationalism and authoritarian rhetoric.

The ideological asymmetry of the "conservative revolution," as it becomes visible in this unmediated coexistence of *völkisch*-corporatist and economic-liberal conceptions, was—alongside its substantive distance from classical conservatism and also alongside the connection, though intended as anti-communist, yet

¹⁸⁴⁷ 336. See above Chapter III, Sections 6a, 6c.

¹⁸⁴⁸ 337. For that reason alone it makes little sense to blame conservatism for developments that have fundamentally different origins.

Klemperer claims conservatism, via the pessimism of Freud and Nietzsche, landed in fascism. He finds this degeneration regrettable, since 19th-century conservatism, in his view, was closer to liberalism than that of the 20th.

He thus projects an idyll into the past that mirrors his wishes about the present and fails to see that the 20th-century right stood closer to liberalism, especially economically, than 19th-century conservatism (see below and Section 4c).

For him, as for many other "liberal" authors, liberalism is mainly a matter of humanistic values, etc.

¹⁸⁴⁹ 338. Cf. Schwierskott, Moeller, 158.

objectively ambiguous, between the conservative and the national—an additional reason why the definitions of conservatism occasionally attempted within its ranks remained unspecific and essentially meaningless. When Moeller van den Bruck claimed that the conservative did not think merely in economic categories but “in the eternal givens of human nature” and rejected the liberal and revolutionary concept of progress precisely out of regard for the ever-same,¹⁸⁵⁰ then even a follower of Machiavelli or Pareto could have agreed. When he wrote that to be conservative was “to always set a beginning anew,¹⁸⁵¹” a progressive or a revolutionary would have had no objection. And when he finally, following Lagarde, asserted that to be conservative meant “to create things that are worth preserving,¹⁸⁵²” this could have been signed by anyone—especially since the crucial final word could be interpreted however one liked. Given this incurable vagueness, it is unproductive and moreover misleading when the analysis of the phenomenon of the “conservative revolution” is oriented toward the “conservative” self-understanding or the intellectual flights of fancy of this or that representative of the movement.¹⁸⁵³ The guiding thread for a concrete social and historical interpretation can only be the aforementioned double polemical reference of the term “conservative,” on the basis of which two main tendencies can be distinguished: If “conservative” merely means nationalist, and this nationalism is directed exclusively against communist internationalism, but not simultaneously against the “anti-capitalist longing” which seems to live on within communism, then this results in a tendency one can call the “national-revolutionary” or “national-bolshevist” one. But if the “conservative” has a double anti-communist thrust—that is, it turns both against internationalism and against collectivism—and if it, for all its criticism of capitalism, remains committed to economic liberalism, then this conceptual structure corresponds to the conventionally so-called “young

¹⁸⁵⁰ 339. *The Third Reich*, 216, 272ff; cf. 241, 296.

¹⁸⁵¹ 340. *Ibid.*, 217.

¹⁸⁵² 341. *Ibid.*, 291.

¹⁸⁵³ 342. Moeller defines the conservative element of the “conservative revolution” as: “not a clinging to what was yesterday, but a life from what always holds” (*Kons. Rev.*, 116). But since all sides — left, right, theologians, and materialists — claim their demands arise from the order of Being, this implies that the past does not necessarily coincide with the eternally valid.

The conviction that the (traditionally) existing contradicts the “truly” valid has long formed the starting point of natural-law-based revolutionary undertakings; classical conservatism explained the longevity of tradition by its harmony with eternal truths.

It has already been noted that Moeller overestimated the philosophical foundations of the “conservative revolution” — a movement that combined many ideas but produced few, and was strongly shaped by current events — by placing eternal recurrence at its core (*Stern, Kulturpessimismus*, 341).

His modest philosophical output left little to clarify its historical, social, and political substance (cf. Schwierskott, Moeller, 98).

conservative" tendency. The *völkisch* idea as such has no concrete socio-political character and can, in varying forms and intensities, be compatible with both tendencies.

The spectrum of the "conservative revolution" thus encompasses a variety of logically and intellectually possible positions; however, these can be classified, surveyed, and understood if one consistently keeps in view the two socially opposed poles of the movement as points of orientation. At the "right" end, we encounter Christian-tinged combinations of liberal and authoritarian conceptions, while at the more sparsely populated "left" end, we find partly utopian social designs in which the *bourgeois* as the defining social figure is absent, as is any reference to traditional humanistic ideologies and theologies. This opposition between the two positions on this most central question was also recognized by those involved, and the nationalist *bourgeois* even had to energetically defend themselves against the nationalist statists or collectivists (see below). On the other hand, there was a series of more or less pronounced similarities that pushed the socio-political opposition into the background. In both directions, which were equally shaped by the experience of the German catastrophe, the national question and nationalism stood at the center. In both, the anti-Western affect was often linked with anti-parliamentarian political notions, even if the respective ideas about the means and goals of eliminating parliamentarism diverged (widely); in both, one finds in various forms and intensities the same aesthetic motifs—for example, the heroic ideal of life—and the corresponding critique of capitalism and interpretation of history. Finally, the fact that the "National Bolsheviks" often presented their rather confused social and economic ideas in the fashionable corporatist and *völkisch* language while avoiding class-struggle slogans (just as the "young conservatives" concealed their economic liberalism behind that very same language) contributed significantly to making the crucial difference between the two directions blurry. Here, we do not wish to delve into the social and economic ideas of Strasser or Niekisch, which, incidentally, have no inherent relation to the problem of conservatism or liberalism. More interesting for our question is the reconstruction of the "young conservative" direction in its ambivalence.

Since the publicists of the "conservative revolution" only came into the public eye under the impact of the German catastrophe, Moeller van den Bruck's literary career likely constitutes the only significant example by which both the continuity between the intellectual motifs of the right-wing political-intellectual movements up to 1914 and those of the "conservative revolution," as well as the shift in tone and interests already during the war years—but especially after 1918—can be concretely traced. At the beginning of Moeller's intellectual development, who paradigmatically represents the *man of letters* type,¹⁸⁵⁴ stand two major guiding ideas: the aesthetic one, which sees in art not merely an imitation of nature, as contemporary naturalism claimed, but rather an almost "ultimate insight"; and the

¹⁸⁵⁴ 343. See the pithy definition of the man of letters in Schwienskott, Moeller, 37; cf. 155.

heroic one, which—following Nietzsche's teachings and Social Darwinism—glorifies struggle in its natural inevitability and ennobling effect, understands the formation of elites in terms of natural selection, and, connecting this to the opposition between elite and mass, culminates in a cultural critique.¹⁸⁵⁵ The *völkisch* idea soon takes on a central place within this combination and is accordingly shaped—i.e., heroically and aesthetically. As a racially given unity, the people possess a particular and permanent character and develop their own style—a character and a style that are always in struggle with those of other peoples and must exist in that struggle: a great, solid community under the leadership of heroic figures that asserts its position within a defined space—this is Moeller's image of German history since Arminius.¹⁸⁵⁶ The aestheticization of the people and of history begins with the portrayal of the people's primordial character, which, as already in Lagarde,¹⁸⁵⁷ is to be embodied in mythical or mythicized figures. The Germanic element unfolds and enriches itself—it becomes idea, culture, and political organization—yet retains its primal vitality and is, in its aesthetic autonomy, clearly distinguished from later accretions such as Christianity or feudalism. Here, a double divergence from classical conservatism becomes evident: classical conservatism not only conceived the Germanic, Christian, and feudal as a unity, but also—despite its preoccupation with the medieval past—always maintained a certain relation to its historical reality, insofar as this reality still persisted in the form of estate-based rights, etc. Both the loss of any interest in such rights and the corresponding prioritization of the national community, as well as the aesthetic need for stylization and thus abstraction from all history, now drive the paganist Moeller to draw a fundamental distinction between the Germanic era—when the national community still lived and breathed intact—and the feudal one, in which signs of degeneration such as rigid hierarchies, divisions, and particularisms spread.¹⁸⁵⁸

It is indeed true that Moeller's militant writings from the Weimar period project his earlier cultural critique into the political realm. But it is only partly correct to conclude from this that the "conservative revolution" was not a spontaneous reaction against Versailles or Weimar, but rather an ideology of the

¹⁸⁵⁵ 344. References in Stern, *Kulturpessimismus*, esp. 229. On Nietzsche's influence on the young Moeller, see Schwierskott, Moeller, 21ff

¹⁸⁵⁶ 345. See e.g. *Ewiges Reich*, I, 536.

¹⁸⁵⁷ 346. *Deutsche Schriften*, 239.

¹⁸⁵⁸ 347. *Drittes Reich*, 159ff (Moeller had to distinguish between Germanness and Deutschtum to count the Germans among the "young nations" unlike the English, see *Ewiges Reich*, I, 327ff).

Also Darré: "everything we usually refer to as the historical German nobility has hardly anything to do with Germanic ideas. All our historical noble privileges and notions are entirely un-German, even un-Germanic, in the highest degree" (Neuadel, 15).

Stern, *Kulturpessimismus*, 223.

19th century that was reformulated after 1918 under more favorable conditions.¹⁸⁵⁹ For even if we were to assume that the projection of the cultural-critical into the political would have occurred without Weimar and Versailles, we can still only explain its *specific content*—and that means what is *specifically German* about the “conservative revolution” as opposed to other European right-wing currents—by the enormous intensity of the national question following the catastrophe of 1918. It was only *this* catastrophe and the subsequent exploitation of German capitalists by (foreign) capitalists that radicalized segments of the bourgeoisie and solidified that peculiar connection—already formed during the war years—between nationalism and rejection of the ‘West’ and its liberalism, which stands at the center of the worldview of the “conservative revolution.” So the projection of cultural critique into politics attained a qualitative, not merely a quantitative, significance: the concrete historical situation newly and radically redefined the intensity and content of the political—otherwise, this projection might well have led to results similar to Carlyle’s. There can be no doubt that Moeller, the political publicist, fundamentally judged Western liberalism in the light of Versailles (his chapter on liberalism in his main work indeed begins with the memory of Versailles).¹⁸⁶⁰ Accordingly, the critique of liberal individualism and universalism is no longer carried out on the premises of classical conservatism, but rather from the standpoint of an existentially urgent nationalism: Individualism knows no binding to people or fatherland, and, by allying itself with eudaimonism and principle-less utilitarianism, ends in the rootlessness of cosmopolitanism and pacifistic universalism. The cold, calculating intellect of the individual—detached from the people—must, in its self-interest, relativize and corrode the shared national values.¹⁸⁶¹ What Moeller finds most damning about the German Revolution of 1918 is that, in neglect of the national idea, it tried to imitate the English and French liberal-parliamentary revolutions—which led to submission to the enemy’s will in the expectation of a better material life: “One followed the impulse of the liberal man.”¹⁸⁶²

In contrast to liberalism, Marxism is free from parliamentary and pacifist illusions. Yet although it too opposes liberal individualism, it does not recognize the nation but rather the *class*, and in its *international* dimension, as the highest politically relevant collective— which leads to a paralysis of realistic foreign policy thinking and a reintroduction of liberal universalism. However, it is mistaken to prioritize class struggle in a moment of national humiliation, and to overlook that there is not only oppression of class by class, but also of nation by nation—are not

¹⁸⁵⁹ 348. Like other authors who adopted the victors’ view of history, Stern attempts to downplay Versailles and its consequences.

¹⁸⁶⁰ 349. Drittes Reich, 99ff; cf. 140ff.

¹⁸⁶¹ 350. Ibid., 117ff.

¹⁸⁶² 351. Ibid., 43ff, 134f, 185ff, 275 (quoted passage).

Germany and Russia oppressed nations?¹⁸⁶³ According to Moeller, Marxism is driven to this mistaken prioritization of class struggle due to yet another fatal similarity with liberalism: like liberalism, it remains economic and therefore materialistic in orientation. (Moeller here confuses the materialist ontology and sociology of Marxism with eudaimonistic materialism in the ethical sense.)¹⁸⁶⁴ Moeller's defense of the "spirit" against the primacy of economics, however, carries an ideological implication: namely, that even *without* changing the capitalist economic base, a *non-capitalist*, for example *national*, politics is possible—if only the right *spirit* prevails. However, Moeller is unwilling to reverse the position: he refuses to accept the collectivization of the economy in the hope that it *might not* harm the national spirit, which he sees as elevated above all material concerns.

Thus we touch upon the social nerve point of "young conservatism." Moeller defends the capitalist entrepreneur against the Marxists,¹⁸⁶⁵ claiming he "belongs at the forefront in economic matters,"¹⁸⁶⁶ and thereby vividly reveals the fundamental ideological asymmetry of the movement he represents: on the one hand, economic liberalism is largely affirmed; on the other, it is confronted by partly organicist *völkisch* and partly authoritarian conceptions. This specificity too arises from the concrete German situation after 1918, which encouraged both an emphasis on the *völkisch*-national in the struggle against "the West" and a fallback to authoritarianism in the bourgeois fight against internal revolutionary threats. There is no doubt about the sincerity of the authoritarian convictions of certain capitalist circles under the circumstances of the time—but it is much harder to determine whether they genuinely believed in the *völkisch* organicism and its corporative applications, or whether they merely feigned belief with the propagandistic aim of exploiting them initially—only to later abandon or neutralize them in practice.¹⁸⁶⁷ The writers of the "conservative revolution" at least enjoyed a certain court-jester's license in this regard: they were allowed, in their

¹⁸⁶³ 352. Ibid., 77ff, 201ff, 224ff.

¹⁸⁶⁴ 353. Ibid., 60ff, 71.

¹⁸⁶⁵ 354. Ibid., 201ff

¹⁸⁶⁶ 355. "Reality," in: Conscience (30 July 1923), cit. Stern, Kulturpessimismus, 301.

¹⁸⁶⁷ 356. Fried argued (thinking of cases like Rathenau) that the younger generation sincerely sought new economic forms, marking a transition from "free to bound" economy, from enterprise to corporation — hence clashing with their fathers, the old entrepreneur type (Ende, 133).

But Fried's analysis, shaped by the Tat-Kreis's critical view of economic liberalism, overestimates these tendencies.

It's unclear if the reform-minded capitalists envisioned merely rationalizing capitalism (as Troeltsch suggested), or a real power-sharing with labor in pursuit of national goals.

Fried's views typify economic circles cut off from global markets by British and French capitalism, hence striving for a new hegemonic bloc based on autarky and social balance (Ende, 261ff

creative zeal, to go a few steps further in sketching out a socially necessary national order than the economic elites behind them were ever likely to go. Troeltsch at the time spoke of the paradoxical alliance between literati with a romantic, quasi-feudal ideology and industrialists with ultra-modern tendencies who aimed to rationalize the economy following the American model—a rationalization tendency masked by an ideology which, taken at face value, would necessarily imply the exact opposite.¹⁸⁶⁸

For all his open support of the “German entrepreneur,” the refined aesthete and fervent visionary Moeller never stooped to the petty business of national-economic argumentation. Other leading members of his circle—incidentally financed by certain industrialists—¹⁸⁶⁹were more direct on such matters. They sought, on the one hand, to differentiate the concept of the “socialization of the economy” from the Bolshevik experiment; on the other, to oppose the transformation of wartime economic controls into a planned economy for peacetime; and finally, to openly defend economic liberalism against national-revolutionary collectivism. The first aim was taken up by Stadtler, who, at a relatively early point, warned against the disastrous economic consequences of Bolshevik nationalization policies and the paralysis of private initiative. The message that Bolshevism brought, despite its own confused and anarchic form, was nonetheless the collapse of the old 19th-century capitalism.¹⁸⁷⁰ But what should that socialization of the economy look like—one that would carry the synthesis of a true *German people’s state*,¹⁸⁷¹ as opposed to the Bolshevism of the East and the formal democracy of the West? Stadtler limits himself here to the vague proposal that “between factory owners and the healthy elements of both the Right and the trade unions,” an agreement should be reached on “the participation of all people working in a factory based on shared interests, shared consultation, shared labor, and shared profit.”¹⁸⁷² Not a single word was uttered about modifying property relations or about economic planning—even at a time when the still-imminent revolutionary threat made larger concessions (at least on paper) seem necessary. In the years that followed, Stadtler abandoned even this half-hearted concept of socialization and welcomed the 1930 expulsion of Strasser from the NSDAP, saying that a united front with that party had now become possible.¹⁸⁷³

Indeed, the “young conservatives” were particularly sensitive—understandably so—above all toward collectivist tendencies that emerged, of all places, from the nationalist camp. Even before the rise of the

¹⁸⁶⁸ 357. *Spectator Letters* (12 Dec 1921), 247.

¹⁸⁶⁹ 358. *Stern*, *Kulturpessimismus*, 271, 273, 277.

¹⁸⁷⁰ 359. *Bolshevism and Its Overcoming*, 14f.

¹⁸⁷¹ 360. *Ibid.*, 18f.

¹⁸⁷² 361. *Bolshevism and Economic Life*, 39.

¹⁸⁷³ 362. *Schüddekopf*, *National Bolshevism*, 325.

national-bolshevik movement, von Gleichen polemicized against the experiment of the war economy and the attempt to continue it in peacetime. The state, he argued, should only “provide leadership and order” for the economy; nonetheless, “the war economy had driven a false development so far that it came close to the production itself being nationalized (socialization).”¹⁸⁷⁴ Particularly revealing for the social character of “young conservatism” is Boehm’s polemic against Jünger’s social vision, which, out of fear of collectivism, results in a defense of “healthy” liberalism.¹⁸⁷⁵ For Boehm—who also emphasized the internal connection between the total state and the war economy or total mobilization—Jünger’s *Worker* represents the “absolute gulf” from tradition and a radical new beginning within a “purely immanent, daemonic-technological world.” “But this attitude is called Bolshevism,” and it implies a break from the religious foundations of our morality.¹⁸⁷⁶ Boehm expresses an attitude here that would later also characterize “conservative” neoliberalism: as soon as the *bourgeois* realizes that the technologization of the world—which he himself has advanced—threatens to culminate in collectivism, he feels the need to erect a barrier against it by retreating from the technical-material-immanent into the security of his spiritual values. From this position, Boehm draws his distinction between the *citoyen*, who remains bound to the Christian-moral order, and the *bourgeois*, who fully surrenders himself to the immanent spirit of acquisition and thereby furthers the “liberalistic destruction of the last remnants of religious binding.” The defense of this liberal *bourgeois* is certainly not the task of “Christian conservatism,” for he does not know what lies at the end of unbridled technology and its materialism. On the other hand, it is emphasized “that all conservative renewal today, paradoxically—a seeming

¹⁸⁷⁴ 363. State Leadership, 387.

¹⁸⁷⁵ 364. Though operating consciously on the level of world-historical and typological abstraction, it also contains references to the concrete contemporary situation. For example, the indirect distancing from the “young conservatives” as the “finer and more experienced minds” preparing a “set change” via pseudo-revolutionary formulas like “organic articulation”:

“The bourgeois has reached a state of despair in which he is ready to accept everything that was once the endless object of his irony, so long as security is guaranteed” (*Der Arbeiter*, 236).

The issue of property was also unsatisfactorily resolved for these bourgeois.

In the workers’ state, property ceases to be a matter of principle or morality; it is only a question of its place in the work plan.

“The rule of the worker is not seen in that ‘there is no property anymore’, but in that even property presents itself as one of the specific forms of labor. This is the most effective way to withdraw it from liberal initiative. Property is judged by the extent to which it contributes to total mobilization” (*ibid.*, 274; cf. 283).

Direct nationalization is rejected only for pragmatic reasons, offering weak consolation to the bourgeois, just as Jünger’s distinction between worker and industrial proletariat (*ibid.*, 74) — which seemed to leave a future to the working entrepreneur.

¹⁸⁷⁶ 365. *Bürger*, 12, 10, 31.

paradox!—must take a liberal, namely a personalist, starting point.¹⁸⁷⁷ Boehm left no doubt about the unity of this Christian personalism with economic liberalism; the defense of spiritual values against the materialist demonism of technology and bourgeois eudaimonism was, for him, inseparable from the defense of the free economy: “Certainly, the forms of decay of liberalism are extremely unpleasant. But purely economically speaking, the cumbersome counter- and interlocking of union and employer representation still offers a greater guarantee of conservative substance-preservation than, for instance, the ‘socialist’ literature that praises autarky and planned economy.”¹⁸⁷⁸

From this perspective, the polemic against liberalism (specifically the *bourgeois* kind) is justified solely to the extent that liberalism contains elements pointing in the same collectivist direction as Marxism. One such fundamental element is liberal eudaimonism, which supposedly finds its counterpart in Marxist materialism (Boehm, like Moeller, conflates ontological and sociological materialism with vulgar, ethically understood eudaimonism). Thus, according to this view, Marxists merely continue Bentham’s liberal doctrines when they call for the happiness of all, advocate the welfare state, demand shorter working hours, or denounce surplus value—which, they claim, paralyzes the productive function of capital and leads to economic stagnation: “Anyone who unscrupulously agitates with the crude egoism, envy, and greed of individuals and classes should not speak of a socialism that has anything to do with community.”¹⁸⁷⁹ The *Gemeinschaft* (community), as envisioned by Boehm on the basis of economic liberalism and a corporatist organization, is meant to overcome both liberal atomization and Marxist mechanistic centralism—by placing the *Volk* (people) above all else.¹⁸⁸⁰ In plain terms, this means: *völkisch* corporatism should, in the name of higher national and spiritual-ethical concerns, put an end to the “egoism” of the lower classes—that is, to mass-democratic and welfare-state tendencies. Corporatism, or so-called “conservative socialism,” and capitalist domination appear here as complementary forces. This linkage was by no means rare within the *conservative revolution*. Even in a blunt Prussian like Spengler—the so-called “Prussian socialist”—private enterprise remained sacrosanct. Against “idiots” preaching “national communism,” he maintained that socialism was “an ethos, not an economic principle” and presupposed “private enterprise with its ancient Germanic joy in power and booty.”¹⁸⁸¹ Here, too, the true target of this “socialism” was eudaimonistic striving. While decadent English liberalism worshipped success and happiness, Prussian socialist ethos was rooted in labor and vocational community.

¹⁸⁷⁷ 366. *Ibid.*, 60, 63, 93.

¹⁸⁷⁸ 367. *Ibid.*, 73.

¹⁸⁷⁹ 368. Karpersch, Binding, 36f

¹⁸⁸⁰ 369. *Ibid.*, 39.

¹⁸⁸¹ 370. Political Writings, VII–VIII.

¹⁸⁸² Direct taxation, expansion of state bureaucracy, and similar measures were branded “Bolshevism” or “social revolution by bloodless means.”¹⁸⁸³ Socialization was not to mean expropriation or state ownership by theft, but rather a matter of administrative technique—something to be completed only “in the course of decades.”¹⁸⁸⁴

In Jung, even more clearly than in Boehm, we find the outlines of what would later be called “conservative” neoliberalism; seen in this light, his deliberate references to Tocqueville¹⁸⁸⁵ are anything but coincidental. The critique of mass democracy and the welfare state as inevitable offspring of eudaimonistic liberalism moves even more systematically—and verbosely—into focus, and is, as already in Moeller, tied to the national question by the argument that the victorious Western powers represented precisely that degenerate liberalism.¹⁸⁸⁶ Liberal individualism, Jung argues, necessarily leads to anonymous rule by the inferior masses and thus to tyranny, because it destroys personality through utilitarianism, instrumental rationality, unrestrained greed, and the dissolution of all bonds to community and to the higher spiritual values it embodies—replacing persons with atoms, held together by a gigantic apparatus and directed by mass parties as well as by the equally anonymous powers of money and the press. Socialism and liberalism converge and work together, despite their apparent opposition, because both are economically oriented; socialism is merely the “revolutionary inversion of material greed,” not a solution to “materialism.”¹⁸⁸⁷ Jung finds particularly harsh words for the welfare state as it appears under mass-democratic conditions. When the people become the “boarders of the state,” fiscal policy serves only “to satisfy the collective mass state,” and taxes are dictated by the expenditures of this “mammoth state.”¹⁸⁸⁸ This leads to centralization, a “law machine,” massive bureaucracies, and the omnipotence of civil servants—without strengthening state authority: for this growth stems from the state’s subordination to the demands and interests of various social groups.¹⁸⁸⁹ Bureaucratization, which burdens the economy above all,¹⁸⁹⁰ is countered by Jung with an economic and social program that calls for a drastic restriction of state activity and a far-reaching decoupling of state and society. In his view, the modern state is an obstacle “to the true

¹⁸⁸² 371. *Ibid.*, 37.

¹⁸⁸³ 372. *Ibid.*, 263ff, esp. 275.

¹⁸⁸⁴ 373. *Ibid.*, 95.

¹⁸⁸⁵ 374. *Domination*, 247, 258, 260.

¹⁸⁸⁶ 375. *Ibid.*, 66ff

¹⁸⁸⁷ 376. *Ibid.*, 40ff, 224ff, 246, 251, 432ff, 387 (quoted words).

¹⁸⁸⁸ 377. *Ibid.*, 502

¹⁸⁸⁹ 378. *Ibid.*, 258ff

¹⁸⁹⁰ 379. *Ibid.*, 439

innovator," and it is wrong to idolize it, to "always view the renewal of German life from the political sphere," or to resolve the "leader question" by planning society from above.¹⁸⁹¹ The state deserves to lead the whole, "but by no means to assume tasks that belong to the economy."¹⁸⁹² This includes, among other things, dismantling the welfare state under the slogan that the best social policy is education toward personal responsibility;¹⁸⁹³ rejection of the democratization of workplace leadership;¹⁸⁹⁴ and reducing state interventions to actions that ultimately serve the general interests of private entrepreneurs.¹⁸⁹⁵ Tellingly, Jung frames these demands with calls to halt proletarianization—that is, to consolidate the middle class, help the propertyless acquire property, and strengthen family and communal bonds wherever possible.¹⁸⁹⁶ He refuses to admit, however, that this amounts to an embrace of the liberal separation of state and society, but leaves unclear how exactly his "doubling" of people and state differs from that liberal formula—especially since the autonomy and self-regulation of the economic and cultural spheres remain entirely intact.¹⁸⁹⁷

The real reason why Jung still refuses to acknowledge the liberal character of the separation between state and society lies in his desire not to appear as an advocate of the night-watchman state. For him—as for the other writers in his camp—this separation did indeed mean, among other things, the dismantling of the welfare state and the liberation of the private economy from its burdens.¹⁸⁹⁸ At the same time, however, it was meant to enable the state to preserve or create the social and political preconditions for the autonomy of private enterprise in a period when socialist and collectivist tendencies were exerting their influence precisely through the legislature and the dependent state apparatus. The strong or authoritarian state—whatever specific form it might take—¹⁸⁹⁹ was thus supposed to partly or fully eliminate parliamentarianism and political liberalism in order to preserve economic liberalism in substance. This is perhaps the clearest summary of the dual stance of Jungkonservatismus.¹⁹⁰⁰ Precisely because the (partial) rejection

¹⁸⁹¹ 380. *Ibid.*, 287.

¹⁸⁹² 381. *Ibid.*, 427f.

¹⁸⁹³ 382. *Ibid.*, 448, 451ff; cf. 302ff on social insurance.

¹⁸⁹⁴ 383. *Ibid.*, 456 ("monstrosity").

¹⁸⁹⁵ 384. *Ibid.*, 479.

¹⁸⁹⁶ 385. *Ibid.*, 446, 213ff, 311ff, 93.

¹⁸⁹⁷ 386. *Ibid.*, 291ff, 304ff.

¹⁸⁹⁸ 387. See also Schotte, *New State*, esp. 22, 91; cf. Papen's words quoted on p. 124.

Schotte knows the objection that his view could also be called liberal. His reply: conservatism too affirms human freedom and individual responsibility, but grounds duties in Christianity (97).

¹⁸⁹⁹ 388. On the various conceptions, see Knoll, *Authoritarian State*, 214ff.

¹⁹⁰⁰ 389. Gerstenberger correctly recognized this (*Revolutionary Conservatism*, 146); later,

of political liberalism and its mass-democratic features was assigned this function, it was explicitly accompanied by a simultaneous rejection of totalitarianism. The demand for an authoritarian state was coupled with a disapproval of the total state. In his later writings—partly remorseful attempts to resist the Nazi tide—Jung insisted that the strong or “sovereign state” could function without that “totality,” which he argued had been wrongly praised as the essence of the anti-liberal spirit: “For liberalism gave rise not only to the neutral state of the parliamentary system, but also to the full democracy of Rousseau, which in essence differs little from the modern state.¹⁹⁰¹” Here again, rejection of liberalism rests on its identification with democracy. The total state means “Bolshevization”; the sovereign state is meant to stand above all spheres of life while also recognizing their autonomy and excluding all forms of planned economy, over-capitalism, and state capitalism that might endanger the rights and freedoms of the individual—or the Christian conception of the value of personality.¹⁹⁰² Even earlier, Ziegler had polemicized against the total state on the grounds that it represented the continuation and culmination of Jacobinism and “Western” national democracy; because of this origin, it could only lead to statism and bureaucratization. By contrast, the authoritarian state—modeled after Lorenz von Stein and the German corporatist tradition—would, he claimed, be able to preserve the autonomy of the political sphere and keep the economy competitive in the global market¹⁹⁰³ (which practically meant freeing it from the burdens of the welfare state). In this view, the separation of state and society is openly affirmed, but under the existing crisis conditions, the state gains significant weight as the agent of political decision-making. The farewell to the night-watchman state, under the perspective of anti-Western affect, appears as a farewell to liberalism itself.¹⁹⁰⁴

The Janus face of *Jungkonservatismus* did not escape contemporary observers. Muralt pointed to the “inner contradiction” of the *Ring* movement “insofar as it posits a strictly authoritarian regime as its political ideal, while at the same time sublimating private property in the economic realm and thus venerating the liberal principle of *laissez aller*”; one could not help but get the impression, he added, that its social policy “amounts to a one-sided privileging of employers.”¹⁹⁰⁵ Neumann

however, she relativized the interpretation (Conservatism in the Weimar Republic, 338ff).

¹⁹⁰¹ 390. Meaning, 99f.

¹⁹⁰² 391. *Ibid.*, 53f, 89, 52, 66. Cf. the critique of Nazi practices, esp. 91, 50, 69 (mass party, glorification of labor and egalitarianism, Gleichschaltung, etc.). These same motifs are found in the speech Jung drafted for von Papen on 17 June 1934 in Marburg, esp. 546ff, 552ff.

¹⁹⁰³ 392. Authoritarian or Total State, esp. 234, 41

¹⁹⁰⁴ 393. Jurists like C. Schmitt and E. Forsthoff, who neglected the social, economic, and ideological sides of the state, used “total state” to argue for the authoritarian one — a mistake they later acknowledged; see Maschke, *Leviathan*, esp. 231ff. Cf. Chapter I, note 91.

¹⁹⁰⁵ 394. *Ring Movement*, 296. Muralt also found it contradictory that the “young

saw this internal contradiction personified in Hugenberg: he exhibited “a peculiar mixture of the bureaucrat, for whom the primacy of the state over the economy is self-evident, and the free entrepreneur, who acts independently and with distance from the state, far removed from any governmental mindset. Though every entrepreneurial posture is alien to him, he is nonetheless widely regarded as the representative of entrepreneurs and as an opponent of social policy.¹⁹⁰⁶” “Conservative revolutionaries” such as Zehrer, who wanted to “smash the oligarchy of property” through their authoritarian state, carry out national renewal “at the expense of capitalist economy,” and link dictatorship to a corporatist order conceived in anti-capitalist terms,¹⁹⁰⁷ of course did not hold back with florid turns of phrase when it came to denouncing *Junkonservatismus*’ entanglement with liberalism. Conservatism, Zehrer argued, had already been liberalized since the 19th century, and thus the connection between nationalism and socialism forged by the *front generation* could no longer be called conservative after conservatism’s liberalization. Likewise, “the industrial right-liberalism of the Hugenberg type, which has adopted liberal methods and aims in every respect and is distinguished only by a sharper emphasis on nationalism, ... has little left that is genuinely conservative. It has dissolved into liberalism.” The same applies to the position of von Gleichen, despite its emphasis on authoritarian statehood and patriotism. “These ideas and methods may seem scarcely tolerable to liberalism ... but it is, on the other hand, amply compensated economically. For the economic form of this state structure is convincingly private-capitalist ... The conservative character of the political leadership corresponds to an unmistakably liberal character of the economic order.¹⁹⁰⁸”

conservatives” appealed both to nationalism, which relies on the masses, and to conservatism, which must avoid those same masses (291).

¹⁹⁰⁶ 395. Parties, 69ff.

¹⁹⁰⁷ 396. Brüning Phase, 165, 168; Collapse, 422.

¹⁹⁰⁸ 397. Right or Left, 515–518, 539. Similar insights, though from different premises and in different words, were reached by commentators who later blamed the tactical cooperation of the “young conservatives” with National Socialism.

Rauschning spoke of the “barren union of an anti-liberal, volkisch outlook with an extremely liberal economic conception” (Revol. of Nihilism, 183).

Weimar conservatism had degenerated into a “bastard form of nationalist liberalism and bourgeois-tempered politics of force” (195).

The economic powers behind this wanted not revolutionary dynamism but only dictatorship’s methods and tools.

The Nazi-created “order” dazzled them and blinded them to the essential difference between the motives behind reorganizations in dynamic dictatorships and those behind the desires of the [“young conservative”] restorative forces (177–178).

The National Socialist polemic against “young conservatism” seemed to confirm this diagnosis.

As Beyer noted in an excellent study, the “young conservative” idea of the neutral state was liberal in origin, as was the aim to safeguard societal independence from the state.

The dissolution of conservatism into liberalism, rightly observed by Zehrer, was of course concealed behind the historically conditioned nationalist and authoritarian turn of the radicalized bourgeoisie; but it became fully visible wherever this turn was not adopted—and there the outlines of what would later be called “conservative” neoliberalism emerged most clearly. Ullmann, for instance, distanced himself from both main components of the Hugenberg program—namely, from unrestrained private property and from the “activism of the apparatus”—and, by advocating for the social responsibility of property as well as for “civility and urbanity” in political life, he sought to see the “opposition between true conservatism and true liberalism dissolved in a higher political unity.” Like the *Jungkonservativen*, his critique targeted eudaimonistic and extreme individualistic liberalism.¹⁹⁰⁹ Quabbe pointed in the same direction with his rejection of mass (democracy) and unchecked progressivism, while simultaneously blending liberal individualism with Christian personalism.¹⁹¹⁰ Even more clearly is this pattern articulated in Diederichs' *Politik des Geistes*. Diederichs had little regard for the “bureaucratic authoritarian state” or for “wall-German chauvinism,¹⁹¹¹” and instead exhorted the bourgeoisie to free itself from materialistic and egotistic thinking, to renew itself, and to place itself in service to the community.¹⁹¹² At the same time, however, he championed private enterprise “in order to avoid the danger of over-governance and democratic vulgarization,¹⁹¹³” opposing mass, democracy, and civilization with elite, aristocracy, and culture. The root of his concept, as he put it, was “the liberal ideal of the spiritual individuality of the person,” the trunk “the conservative ideal of organic lawfulness,” and the crown “the socialist ideal of community.¹⁹¹⁴” This overcoming of mass-democratic materialism, eudaimonism, and economism was sealed by the primacy of spiritual values—among them, the reminder of the great social task of art.¹⁹¹⁵

There were also paths through right-liberal authoritarianism that led to so-called *conservative* neoliberalism—this is illustrated by the ideological trajectory of Müller-Armack, who went from being a moderate fascist and National Socialist

But this juxtaposition of authoritarian and total state was sterile — between full nationalization and authoritarian self-restraint, there was a third option: union of state and people through a volkisch leading order.

The notion that the state should be above the party was untenable (Ideology of Guilt, 99ff, 239).

¹⁹⁰⁹ 398. The Right, esp. 7ff, 10f, 41, 44.

¹⁹¹⁰ 399. Tar a Ri, 116ff, 131ff.

¹⁹¹¹ 400. Politics of the Spirit, 61, 63ff

¹⁹¹² 401. Ibid., 171, 196, 185

¹⁹¹³ 402. Ibid., 50

¹⁹¹⁴ 403. Ibid., 38, 39.

¹⁹¹⁵ 404. Ibid., 194.

to becoming an intellectual father of the Federal Republic's social market economy. That authoritarianism aimed to eliminate both "Marxist collectivism" and liberalism in its negative sense—that is, understood as economistic, eudaimonistic, and mass-democratic. The latter was to be overcome by binding economic activity to higher goals, so that the narrow "egoism" of economic actors (i.e., blind profit-seeking without regard for the common good on the employers' side, and social demands without regard for economic realities on the employees' side) could be transcended, and the paralyzing antagonism replaced with fruitful cooperation. The authoritarian state would then be the instance that—primarily through elevating the Political (and the higher communal goals it is by definition associated with) over the Economic—would act to overcome this economistically oriented (bad) liberalism. Yet the superiority of those goals need not necessarily appear as the primacy of authoritarian politics over economics; just as well, it can present itself—where the state is politically weak—as the thesis of the primacy of Christian or moral values over selfish eudaimonism and rootless individualism. In either case, the enemies remain the same: collectivism and (bad, mass-democratically degenerated) liberalism.

This transition is, as mentioned, evident in Müller-Armack's ideological development as it adapted to changing historical circumstances. According to his own account, he had already arrived at the idea of a simultaneous overcoming of Marxism and liberalism in 1924 through his experience of Italian fascism.¹⁹¹⁶ By 1933, he advocated achieving this overcoming through the primacy of the political—i.e., through the National Socialist state—and sketched out an economic model in which "individual entrepreneurial initiative is preserved," but made to serve the goals set by the state.¹⁹¹⁷ "Free initiative here finds a field of activity, though not in the sense of a sphere of freedom opposed to the state, but as a domain subordinated to the state, whose legitimacy derives from its function for the whole."¹⁹¹⁸ The corporative structure was intended to mediate between state and economy, thereby rendering political liberalism—that is, parliamentary representation—superfluous; at the same time, it was to counteract the formation of cartels and trusts, which obstruct the free course of economic activity.¹⁹¹⁹ In 1948, Müller-Armack again emphasized the importance of the political over liberal economism, though more cautiously this time, linking the political to the moral by invoking the social responsibilities of the state and the ethical dimensions of economic activity. His goal remained the same: to overcome both individualism and collectivism, while ensuring both "social balance" and "room for personal

¹⁹¹⁶ 405. *Idea of the State*, 11, n.1

¹⁹¹⁷ 406. *Ibid.*, 234ff, 41, 476

¹⁹¹⁸ 407. *Ibid.*, 49.

¹⁹¹⁹ 408. *Ibid.*, 52ff

entrepreneurial initiative.¹⁹²⁰ Just a year later, this emphasis on the political underwent further weakening, gradually replaced by the moral as the key non-economic factor—especially in connection with the defense against communist collectivism.¹⁹²¹ Müller-Armack's final shift into neoliberalism was completed through his adoption of Röpke's intellectual-historical analyses. Whereas in 1933 he had celebrated the defeat of relativism by "the new idealist historical attitude of the German movement,"¹⁹²² by 1948 he mourned the loss of belief and the rise of nihilism—now including National Socialism in that diagnosis.¹⁹²³

4. The Scattered Legacy of Conservatism

a. The Corporatist Idea

We know that classical 19th-century conservatism invoked the corporatist idea with the aim of binding emerging industry in the fetters of feudal immobility, thereby preserving the social and economic primacy of landed property.¹⁹²⁴ That plan failed — or rather, never even had a real chance of being tested. A sign of the waning corporatist ideal, concurrent with the nobility's integration into capitalist society, is its gradual detachment from the principle of estate-based hierarchy. For the practice of the *societas civilis* and for classical conservatism itself, it was self-evident that corporative organization should reflect and reinforce existing social stratification. But over time, technical and professional criteria came to dominate among corporatists — indicating how deeply capitalist economic priorities had permeated the political imaginary. This shift coincides with the corporatist idea becoming entangled with political currents that neither originated from nor served the nobility. For example: while Ketteler's Catholic social doctrine still emphasized estate-hierarchical differentiation, Hitze considered the different estates or corporations to be fundamentally equal and also granted the state a much larger role in the economy than Ketteler had. Equally telling of the corporatist idea's decline under capitalist conditions is Hitze's dispute with Hertling, who, despite wanting to mitigate the inequities of economic liberalism via limited corporative structures, essentially endorsed liberalism as the indispensable framework of social progress. In the end, Hitze had to adapt to the Centre Party's

¹⁹²⁰ 409. Century, esp. 183ff, 199

¹⁹²¹ 410. Diagnosis, esp. 280ff, 304ff

¹⁹²² 411. Idea of the State, 28ff

¹⁹²³ 412. Century, 118ff, 139ff.

On Röpke, see Chapter I, Section 2

¹⁹²⁴ 413. See above, Section 2 of this chapter.

pragmatic politics — that is, the drift toward a liberal-capitalist status quo in Catholic wrapping.¹⁹²⁵

When the corporatist idea returned to political prominence, it did so for the opposite reason than in 19th-century classical conservatism. Back then, the aim had been to keep capitalist growth within acceptable bounds; now, it was about stabilizing a capitalism in crisis, and giving the bourgeoisie a chance to continue directing state and society—either in a modified, no longer purely private-capitalist form, or in a new ideological-political disguise. Here, corporatism could be helpful in several ways. First, the right in the 20th century had to appear nationalist, if only because its socialist-communist arch-enemy operated under the banner of internationalism—regardless of how that term was interpreted or whose interests it actually served. The class-conflict-driven, internationalist idea could only be countered by arguing that class opposition was secondary or even illusory compared to the strength of national unity, which binds rich and poor alike to solidarity in the face of higher common goals and enemies. Corporatism—the image of harmonious cooperation between groups portrayed by the left as irreconcilable enemies—was meant to serve as concrete proof of the social and existential superiority of national integration over all “materialistic” and “egoistic” class-based divisions. More than that, however, this rhetoric marked a tacit admission by bourgeois circles that the era of pure private capitalism and the old-style entrepreneur was over. With the displacement of family firms by cartels and trusts, new forms of economic organization were needed—especially as managers and unions had now become production factors in their own right. But behind this recognition lay divergent motives. Visionary entrepreneurs like Rathenau or class-conscious managers like Moellendorf genuinely sought post-capitalist organizational forms resilient to crisis and socially stable—though they still wanted to preserve both corporate autonomy and entrepreneurial initiative.¹⁹²⁶ These plans largely remained theoretical, even if later developments in economic structure bore superficial resemblance to them. At the same time, there were bourgeois-capitalist factions who bizarrely championed corporatism and economic liberalism in the same breath. This paradox only makes sense if their intent was to carry economic liberalism and bourgeois dominance through the crisis with minimal, mostly ideological or symbolic concessions. These groups emphasized the political, not technical-economic, dimensions of corporatism: its nationalist element was useful against Bolshevism, and its structural logic provided a rationale for replacing parliamentarianism—i.e., universal, equal, secret suffrage and majority rule—with partial and unequal (profession-based) representation. This decisive political function was stated outright by Moeller van den Bruck. If the revolution attacked parliamentarism in the name of the council idea, he wrote, then conservatives would attack it with the estate idea: “Above all,

¹⁹²⁵ 414. On these disputes, see Bowen, *German Theories*, 105f, 108ff

¹⁹²⁶ 415. See also *ibid.*, 208.

the estate idea was directed against the parliamentary state. It does not exclude popular representation... but it excludes party rule.¹⁹²⁷

Heller was not wrong when, in a sharp polemic against the Weimar Right, he claimed that the construction of the *Standestaat* (estate-based state) was a “seemingly democratic disguise meant to promote dictatorship.” Its proponents appeared to oppose the stifling interventions of a bureaucratized state and to defend the free activity of social forces, but in truth, their attack was not aimed at the expansion of state administration, but rather at the extension of state legislation into the socio-economic domain—in other words, against the welfare state and mass democracy with all their egalitarian side effects. The “representatives of corporatist ideology” knew very well that, through “democratic means, no political unity arises from economic interest groups—only permanent class conflict”. Hence, a corporatist state structure could not be realized without a strong state.¹⁹²⁸ With this observation, Heller put his finger on the weak spot of the corporatist project and at the same time reinforced his conviction that this corporatism was merely a façade, behind which lay a plan for a very different strengthening of the state than the one envisioned by Social Democrats. Indeed, no corporatist blueprint offered a satisfying solution to the central problem of the relationship between the state and the (supposedly autonomous) corporations. None denied the problem’s existence or importance—though many simply avoided it. And this in itself was a telling sign that the worldview of classical conservatism had been definitively abandoned—even if its vocabulary, like the corporatist concept, had returned to center stage. For it was not conservatism but liberalism that had always faced the *real* problem of defining the boundary between state and society, based on their presumed separation. This boundary issue was only sharpened, not resolved, by the barely concealed desire to replace the night-watchman state with an authoritarian one—and it was sharpened precisely because the Right, despite rejecting political liberalism, did not want to give up the autonomy of society. But there was no way out of the contradiction: to combat “bad” liberalism, the Right deployed both corporatist ideology and the authoritarian state. These worked polemically in tandem—but logically, they could not be reconciled.

Two prominent examples suffice to illustrate the vagueness of corporatist proposals on this crucial point. For Maurras, the national aspect of the corporatist idea remains fundamental. In the *corps de métier*, *dirigeants* and *dirigés* meet and come to terms, and all human factors of production feel themselves to be parts of one and the same nation—one that compels its antagonistic interests to step back in favor of the national economy’s international competitiveness.¹⁹²⁹ The anti-parliamentary thrust appears again in his argument that within the

¹⁹²⁷ 416. *Drittes Reich*, 166. A good summary of the estate-corporate concept of the Ring and Tat circles is offered by Beyer, *Ständeideologie*, 64ff

¹⁹²⁸ 417. *Rechtsstaat*, 20–22.

¹⁹²⁹ 418. *Mes Idées*, 221, LIII, LV.

corporation, members of the national community would cast votes on issues they understand through experience and can influence, whereas in parliamentary elections, precisely the opposite occurs. Universal suffrage would still apply, but only to elect representation, not government.¹⁹³⁰ It thus seems that government independence from elections is, in itself, proof of its superiority over the corporatively structured society. In fact, Maurras at times expresses stronger sympathies for leadership exercised from the state, yet this is not anchored in the institutional framework of his social design. The nation is organized corporatively and hierarchically—but it remains unclear what status and function the state itself has. Does the state form the apex of this hierarchy, or is it merely the external force holding that hierarchy together? Does it coincide with the nation as the sum of its corporations, or is it a separate and qualitatively distinct entity? If it is the latter, how is it prevented from subjugating the corporations through voluntaristic interventions? And if it is not, who ensures the hierarchy between corporations and suppresses their internal conflict at its inception?¹⁹³¹ Maurras offers no answers to these questions. Nor does he clarify the institutional framework that could resolve them—especially since his state is not supposed to interfere much in economic affairs and is even to be financially dependent on the corporations or society.¹⁹³² By contrast, Spann at least addresses the problem directly and admits that self-determination of the estates, without their integration into the whole, would amount to anarchy; thus, strong state power is a necessary requirement of an estate-based state.¹⁹³³ But when Spann speaks of the concrete determination of the relationship between this strong state and the *Stände*, he simply declares that this is “not today’s concern.” Instead, he offers two general conditions—yet these again fail to clarify what grounds the state’s power or who is the final arbiter in conflicts between the state and the *Stände*. On one hand, he allows the fully autonomous “economic corporate bodies” to exclude the “centralized state” from economic life. On the other hand, he insists that state authority is not derived from the elements of society, but rather constitutes a separate estate: a head of state who, along with his support—the entirety of estate leaders—regulates “only and exclusively those matters that are of the state.” But who determines what is “of the state”—¹⁹³⁴the state itself, or society?

Spann’s perhaps extreme example makes it particularly clear how artificial—and one might even say cerebral—the attempted revival of the corporative idea was, removed from all real social tendencies and lacking any concrete social base. This absence is unhappily compensated in Spann by a retreat

¹⁹³⁰ 419. *Enquête*, 324f; cf. 540ff; *Mes Idées*, 167.

¹⁹³¹ 420. Cf. Weber, *Action Française*, 216ff, 522ff.

¹⁹³² 421. See above, Section 3c of this chapter.

¹⁹³³ 422. *Der wahre Staat*, 241

¹⁹³⁴ 423. *Ibid.*, 287ff.

into the Middle Ages and Plato, precisely at the points where structurally decisive questions arise.¹⁹³⁵ It is precisely because the corporative idea embraced by the Right in the 20th century was essentially an artificial program—lacking any significant social grounding and more *invented* in the fight against “bad” liberalism and parliamentarism than *rediscovered*—that it failed to achieve anything in line with its proponents’ aims when movements that had used it propagandistically in their anti-parliamentary campaigns actually came to power. The aporias just mentioned remained unresolved—simply because the actual power structures allowed no room for such aporias to even matter: the corporations were so weak, even fictitious in part, that their relationship to the state was never a serious issue. They were merely used to discipline workers—or, in some cases, employers—in order to realize the goals that the state, i.e., the political leadership, had defined in the name of the nation. This fact was quickly noted by contemporary observers.¹⁹³⁶ Some, like Heller in his aforementioned critique,¹⁹³⁷ saw in the Italian fascist experience no reason to join Maurras in declaring the final realization of the corporative state. Even more sharply, Hermens emphasized the primacy of the state and the party under fascism. In Italy, he wrote, corporations were not formed based on strict economic criteria. Instead, they had to pledge allegiance to fascism, have their statutes approved by the state, and make the election of their leaders dependent on the higher authorities of the fascist party. In short: “*The ruling class of today’s Italy was formed by the fascist party, not by the economy... Behind the corporative façade of the corporative state appears the party state. The difference between today’s Italy and the parliamentary democracies is therefore not between an estate-based state and a party state, but between a multi-party and a single-party state.*” Fascist publications, as Hermens noted, repeatedly emphasized the primacy of the party and of politics.¹⁹³⁸

No less clearly did the same development emerge in National Socialist Germany. In general, what Rauschning wrote about Darré’s measures to organize the *Reichsnährstand* holds true: they are “not new bodies of self-administration, not corporations, not forms of integration, not organs and limbs of the state — they are apparatuses of domination, propaganda, surveillance, and terroristic control.”¹⁹³⁹ The subjugation of the corporations to the Party proceeded inexorably after 1933.¹⁹⁴⁰ National Socialist authors like Frauendorfer themselves left no doubt about the hierarchy of priorities. Even if a corporative organization of the economy was affirmed in principle, it was simultaneously emphasized that such an economy, once structured, had to obey politics; the estates were to be purely economic

¹⁹³⁵ 424. See also *ibid.*, 229;

¹⁹³⁶ 425. *Mes Idées*, LXVII.

¹⁹³⁷ 426. *Rechtsstaat*, 22.

¹⁹³⁸ 427. *Parlamentarismus*, 483, 484f.

¹⁹³⁹ 428. *Revol. d. Nihilismus*, 62.

¹⁹⁴⁰ 429. Details in Cole, *Corpor. Organiz.*, esp. 455ff.

representations and had nothing to do with politics. While internal tensions and particular interests hampered the functioning of a corporative economy, the National Socialist leadership would be in a position “to make decisions unimpeded by petty economic considerations.” The very fact that the estate encompassed “only a part of the individual’s obligations” already revealed that the National Socialist state was not an estate-based state, for it controlled politics and culture beyond that, exercised “supreme oversight over all estate activity,” and could “repeal or modify decisions of the estate organizations.”¹⁹⁴¹ Beyer would later argue this even more radically and systematically. The proponents of the estate idea, he claimed, had believed they could not only abolish class struggle but also overcome the existing political order through the rejection of parliamentarism and the party system. Above all, Catholicism had seen in the pluralism of estates its best guarantee against centralized political leadership and in favor of the Church’s unimpeded influence within this depoliticized, estate-based domain. Ultimately, he claimed, “the goal of estate-based state theories was the dissolution of any strong political leadership,” especially since they never explained how social multiplicity could be reconciled with unified political direction. National Socialism had from the start insisted that estates could “only encompass one part of social life and must not have any state functions,” while the estate ideology had wished to grant the state a right of intervention only in emergencies. This attitude, Beyer argued, was ultimately rooted in the liberal division of state and society — a division the thoroughly anti-liberal National Socialism aimed to eliminate by subjecting both state and society, state and estate, equally to the leadership of the Movement — that is, the Party.¹⁹⁴² It could hardly be stated more clearly: the elimination of liberalism was left to other forces than the advocates of the corporative idea — and the solutions offered by the ideological arsenal of classical conservatism no longer held any power to shape history.

b. Cultural Critique and the “Left”

Despite the contemporary prominence of cultural-critical themes in literary and political debates, we need not dwell on them long, since their conceptual structure and intellectual origins are generally well known — even if few modern cultural critics are fully aware of them, and even if scholarship has not yet clarified all the far-reaching influences and crosscurrents these motifs have traversed across diverse political and ideological tendencies. Still, the essential similarities between conservative and socialist critiques of capitalism have long been noted, including their shared anti-individualist stance as opponents of 19th-century bourgeois

¹⁹⁴¹ 430. *Ständischer Gedanke*, 22, 24, 26. Two years later (1935), Frauendorfer emphasizes the primacy of politics even more strongly — see *Idee und Gestalt*, 30f.

¹⁹⁴² 431. *Ständeideologien*, 322ff, 326ff, 331, 338.

liberalism.¹⁹⁴³ The rejection of individualism in favor of a communal ideal — however that was defined — was bound up with a repudiation of the separation between private and public, legality and morality, citizen and human being, that had emerged from the disjunction of state and society. When Stahl, despite viewing socialism as the logical outgrowth of liberalism,¹⁹⁴⁴ praised its critique of laissez-faire and of individualistic property concepts, as well as its commitment to association and corporative structures, he also noted that socialism, like conservatism, saw the social and the political as inseparable.¹⁹⁴⁵ Indeed, insofar as socialism sought an anthropological grounding for its social-political demands, it arrived at monistic structures — the ideal of a unified human being who can realize himself only within a community free from internal divisions. This monistic ideal wasn't simply copied from conservative models, but emerged logically from the socialist rejection of liberal dualisms in social theory and anthropology. Yet, the simultaneous rejection of the conservative ideal of hierarchy and the affirmation of egalitarianism also meant that certain elements of liberal individualism continued to persist within the socialist humanist ideal — although the boundaries between the individualist and collectivist components remained vague and were adjusted according to shifting ideological needs.

The democratic or socialist condemnation of working and living conditions in early industrial society is not much younger than the conservative one, yet it develops independently out of a fundamental revolt against injustice—something typically absent in related conservative anti-capitalist positions. Conservatives, however, had a certain intellectual head start: they were the first to ground their critique of these conditions in a worldview and anthropology, drawing on an older conceptual framework already refined in polemics against the Revolution in the immediate years after 1789. Thanks to this systematic foundation, conservative critiques of capitalism could exert influence beyond their own camp, even affecting socialists—whether or not these socialists were aware of the conservative origins of the anti-capitalist themes they adopted. In this intellectual constellation, the young Engels, for example, could draw freely on Carlyle when describing the condition of the working classes in England, despite making no secret of the contrast between his own social-political goals and those of the Englishman. At the same time, the young Marx, while theorizing this critique of capitalism from the perspective of industrial misery, focused on two core motifs—without explicitly referencing conservative thinkers, yet ones that also stood at the center of analogous conservative theorems. First, he highlighted the far-reaching depersonalization of human relations under capitalism, locating in money a blind, yet in its way rational, force that both expresses, drives, and seals this depersonalization. The

¹⁹⁴³ 432. See e.g. Lenz, *Agrarlehre*, passim; Below, *Deutsche Geschichtsschreibung*, esp. 171; Mannheim, *Konservative Denken*, 429, 441.

¹⁹⁴⁴ 433. See above, Chapter III, Section 5a.

¹⁹⁴⁵ 434. *Die gegenwärtigen Parteien*, 275f, 282ff.

quotations from Sophocles and Shakespeare lamenting the power of money that appear in the 1844 *Manuscripts* would be cited again decades later in *Capital*. Second, drawing on Hegel's observation of the autonomization of the sphere of needs (i.e., civil society), Marx attacked the resultant division of man into *bourgeois* and *citoyen*—a split plainly tied to the aforementioned general depersonalization of human relations. Both core aspects of alienation could only be meaningfully judged as harmful to human nature from the standpoint of a monistic anthropology and conception of society—one that Marx shortly afterward outlined in *The German Ideology*: the unified, multidimensional human lives free of the fractures of bourgeois subjectivity, within a community that does not recognize the separations between state and society, politics and social life, private and public. And a third idea, especially prominent in the *Grundrisse*, links Marxist with conservative critiques of capitalism: the emancipatory effort to de-fetishize and de-mythologize culminates in the realization that behind money, commodities, and what bourgeois economists portray as objective economic laws, there lie concrete human relationships. The form of economic life, then, is a function of these relationships—and it is precisely these relationships that matter.

The similarities between socialist and conservative critiques of capitalism—ranging from cultural and anthropological dimensions to theories of exploitation and crisis—can be easily reconstructed from our earlier discussion of corresponding conservative positions, making a detailed enumeration unnecessary here. What concerns us most is the cultural and anthropological aspect, which, on both sides, was marginalized during the final decades of the 19th and the early decades of the 20th century—on the conservative side due to the growing identification of the aristocracy with capitalist society, and on the socialist side due to the long-standing dominance of social-democratic scientism and positivism. When this dimension was rediscovered by socialists after World War I, it had already absorbed themes developed by aesthetically inclined intellectuals. Simmel's *Philosophy of Money*, from an intellectual-historical perspective, represents a crucible in which older Marxist and newer aestheticizing critiques of capitalism and culture converge. A close analysis of the conceptual structure and terminology would show that *History and Class Consciousness* by Lukács owes a substantial—indeed, in some respects decisive—debt to Simmel's analyses. Given the intersection of Marxist and aestheticizing motifs in Simmel's cultural critique, it is also telling that Lukács had already passed through a strongly aestheticizing phase before emerging as a theorist of anthropologically grounded socialist critique of capitalism. This intellectual formation—enriched with some existentialist and "critical" elements—provided the broad ideological framework for the kind of cultural criticism that, in the 1960s and 1970s, became the guiding orientation for certain leftist political-intellectual movements in the U.S. and Western Europe. By then, however, not only the conservative origins of cultural critique had been forgotten or suppressed, but also the significant use that right-wing intellectuals had made—between the two world wars—of key themes

from this worldview- and anthropology-based critique of capitalism and culture.

In our time, many “conservatives” who, during the euphoric years of economic growth, often worshipped the golden calf, were only forced—under the mounting pressure of left-wing cultural criticism—to seriously engage with such questions. The prior neoliberal polemic against mass-democratic “materialism,” etc., had partially prepared them for this, and they were soon able to recall the conservative prehistory of culture-critical thought-motifs, so that no debt of gratitude to the Left needed to be acknowledged. A culturally critical stance adapted to a “conservative” liberalism could more easily become socially acceptable, especially once it became clear—after initial surprise or panic—that it was largely harmless in social-political terms and could also serve as an ideological safety valve, absorbing discontent with relatively little concrete concession. That the New Left appeared chiefly under the banner of cultural critique was, from the start, an unmistakable sign of its inability to threaten the “system” at its social-political foundations. And not only did it fail to do so—it also contributed significantly to the erosion or destruction of any kind of socialist orthodoxy. This orthodoxy had always held fast—both in its social-democratic and communist forms—to the doctrine that the development of productive forces constituted the foundation of social progress. It saw this as the defining line separating itself from classical conservatism, despite shared criticisms of capitalism. As the New Left gradually distanced itself from this doctrine to focus on ecological issues, etc., it also lost its specifically socialist character. The new search for “nature,” in whatever form it took, led to the partial revival of certain arguments and predictions made by proponents of classical conservatism—those who, speaking from the perspective of the landowning aristocracy, idealized life in the open countryside and warned against the fatal consequences of industrialization. Yet the intellectual-historical background of such views went unnoticed, and these views were increasingly mixed with all kinds of exotisms, primitivisms, and occultisms. Ultimately, the New (and former) Left’s quest for “nature” is funded by the surpluses of industrial society and poses no real threat to the “system.” The true enemies of capitalist liberalism do not think in cultural-critical or ecological terms, but in political and military ones. A careful reading of polemics coming from the Eastern Bloc against the theory and practice of the New Left and environmentalists is genuinely instructive.

c. Dictatorship and the “Right”

In the previous section of this chapter, repeated warnings were issued against confusing 19th-century conservatism with the Right of the 20th century. The essential historical and social difference between the two lies in the fact that the Right emerged with the goal of defending bourgeois property and economic liberalism—things that classical conservatism had once fiercely opposed. This defense, in turn, is undertaken through authoritarian means, but simultaneously on the basis of the separation of state and society—also fundamentally rejected by

classical conservatism—so that the state retains a monopoly on the political, while society is left to pursue its economic and other activities freely, at least insofar as these do not impinge upon the political authority of the state. Now, this separation of state and society, understood in this way, can assert itself at various stages of post-feudal social development, and the physiognomy of right-wing political authoritarianism takes shape accordingly. Sometimes the state faces a society led by a strong and tradition-rich bourgeoisie, which, for certain immediate reasons, is (temporarily) unable to master the political situation. In other cases, society is dominated by large landowners operating on a capitalist basis, or it consists primarily of a (relatively) weak bourgeoisie and a mass of small property owners—e.g., independent farmers—who fear the loss of their property no less than the bourgeoisie. As the experiences of this century from Europe, Asia, and Latin America have clearly shown, the authoritarian rule of the Right can fulfill multiple functions: from stabilizing the social position of an already economically strong bourgeoisie to creating the institutional framework for modernization and industrialization along capitalist lines—deliberately excluding all socialist experiments to that end. In any case, certain core features remain stable. Since private property and economic liberalism—on whatever level or in whatever form—are to be protected against the Left by authoritarian means, the Right's programmatic anticommunism consists of a set of principles that essentially represent the inversion of communist slogans: in place of class and internationalism come nation and patriotism; in place of universal emancipation, the traditional patriotic value scale; in place of (pacifist) humanism, the heroic ideal of life; in place of collectivism, freedom—and conversely: in place of anarchic individualism, social discipline; and in place of political liberalism, authoritarianism. These ideological principles are not always logically or historically consistent with the objective social function (we already encountered this asymmetry in the “conservative revolution”), but they are polemically indispensable—and for that reason, the danger of ideological hypertrophy and hollow rhetoric must also be accepted.

The Right of the 20th century must, unlike 19th-century conservatism, hold fast to the separation of state and society precisely because the threat to private property and economic liberalism arises wherever that separation is abolished. Either the separation disappears under a collectivist or totalitarian regime, in which both state and society are subject to the commands of the ruling party, or it is blurred within a parliamentary democracy, where the state becomes an executor of the demands of particular social groups—especially, and this is what the Right primarily resents, a vehicle for leftist social policy that restricts existing property rights. The separation of state and society, as envisioned by the Right, must thus be accompanied by a strengthening of the state, so that it may, armed with a monopoly on the political and unquestioned authority, resist pressure from societal forces—whether collectivist or mass-democratic-socialist in nature. This extreme consolidation of political authority culminates in the establishment of a

dictatorship, i.e., in the abolition of parliamentarism and political liberalism. The essential mark of the Right lies precisely in its programmatic willingness to eliminate political liberalism in order to preserve private property and economic liberalism from leftist attacks. In this sense, the Right belongs to liberalism, however much some “enlightened” segments of the bourgeoisie may feel ashamed of that kinship. Under no circumstances, however, should historical or sociological analysis confuse the degree and intensity of violence employed by a dictatorship with the social character and objective function of that same dictatorship. Those who fall prey to such optical illusions are typically those who, under the influence of contemporary “left-liberal” tendencies, conceive of liberalism not as a concrete historical formation but as an abstract humanitarian category.

As the right-wing dictatorship emerges to defend already existing property rights, and thus acts—openly or tacitly—on behalf of those who hold those rights, it remains a *commissarial* dictatorship, directed against the threat of a revolutionary *sovereign* dictatorship that seeks to overturn the established order. This intention to remain provisional is something the counterrevolutionary conservatism of earlier times also attributed to its own concept of dictatorship—hence the analogy between the counterrevolutionary Right and historical conservatism, even though the former defends social and economic principles that the latter considered practically revolutionary. This analogy becomes clearer when we recall the traditional aristocratic mistrust of dictatorship as such,¹⁹⁴⁶ rooted in the fear that a commissarial dictatorship might evolve into a sovereign one. Just as the aristocracy was reluctant to embrace dictatorial rule—even when no practical alternative seemed available—due to fear of a “revolutionary absolutism,” so too the frequent hesitation or outright rejection by significant parts of the bourgeoisie toward right-wing dictatorship stems from a similar suspicion: that it might pave the way for a totalitarian regime. Whether such suspicions prevail within the bourgeoisie depends on the concrete political situation and the broader historical character of a country. Sometimes, the military takes matters into its own hands, sparing the bourgeoisie the agony of decision-making, by seizing power and offering its services in exchange for certain concessions. Still, we can establish criteria to assess whether a right-wing dictatorship is veering toward totalitarianism.¹⁹⁴⁷ A reliable indicator is its willingness to blur the line between state and society by relying not primarily on the existing state apparatus but on a mass organization that subjects

¹⁹⁴⁶ 435. See above, Chapter III, Section 3d.

¹⁹⁴⁷ 436. Apparently in view of recent experiences in Italy and Germany, Röpke formulated this bourgeois concern as follows: Whether a state begins with an anti-tyrannical socialism or with an anti-socialist tyranny, the inner logic of development will always lead to the same final result: unbroken tyranny, total collectivism, which seizes all areas of social life. The economic dictatorship can no more exclude the political-spiritual than the political-spiritual can exclude the economic (*Gesellschaftskrisis*, 147).

both state and society to its will (or that of its leaders). This dynamic proves just as fatal to liberalism in the long run as comprehensive economic planning or the strict political direction of private initiative according to goals set not by the economy itself but by the political leadership. By these standards, authoritarian regimes such as Franco's Spain, Salazar's Portugal, or various Latin American military governments—despite occasional plebiscitary elements—can be classified as right-wing dictatorships. Italian fascism remained at the threshold between a right-wing and a totalitarian dictatorship, whereas German National Socialism ultimately disappointed many of its bourgeois supporters and patrons who had hoped it would remain within the limits of a commissarial right-wing dictatorship and serve exclusively bourgeois interests.

5. Final Remark

Conservatism, as a concrete historical phenomenon accompanied by a clearly defined ideology, is long dead and buried. It is simply nonsensical to call contemporary Western political programs, parties, or governments "conservative" when they are committed to technological progress, social mobility, and thus to the modern principle of the world's malleability—thereby, despite all traditionally moralizing rhetoric, promoting a development that has already initiated unforeseeable upheavals in human history, and perhaps may not even stop short of altering the biological substance of the species itself. Nonetheless, such language remains indispensable for polemical reasons: it is needed by orthodox liberalism, seeking to distance itself from the mass-democratic and welfare-state tendencies of "left-liberalism," as well as by the Left in all its shades, which, in trying to monopolize the idea of "true" progress, can imagine no greater insult to its enemies than calling them "conservative" or "reactionary." The actual course of history unfolds beyond these polemical slogans, although their heralds and users believe in a necessary connection between slogans and historical events. On the other hand, history is indeed driven forward by the very energies these slogans unleash. In this sense, a condition of effective historical action is that one does not know what one is doing—and that one theorizes this very ignorance with every argumentative trick at one's disposal.

- Acta Borussica. Die Behördenorganisation und die allgemeine Staatsverwaltung Preußens im 18. Jh., hg. v. G. Schmoller, O. Hintze et al., I–XIV, Berlin 1894 ff.
- Addio, M. d': L'Idea del contratto sociale dai sofisti alla riforma e il „De Principatu“ di Mario Salamonio, Milano 1954.
- Adhémar, A.: Du parti légitimiste en France et de sa crise actuelle, Paris 1843.
- Albertini, R. v.: Das politische Denken in Frankreich zur Zeit Richelieus, Marburg 1951.
- Allen, C.: Law in the Making, Oxford ³1951.
- Allen, J.: A History of Political Thought in the Sixteenth Century, London 1964 (¹1928).
- ders.: English Political Thought 1603–1644, London 1938.
- Ancillon, Fr.: Über den Geist der Staatsverfassungen und dessen Einfluß auf die Gesetzgebung, Berlin 1825.
- ders.: Zur Vermittlung der Extreme in den Meinungen, Berlin 1828.
- Anderson, P.: The Background of Anti-English Feeling in Germany 1890–1902, Washington 1939.
- Antonii de Butrio, Consilia, Lugduni 1541.
- Aris, R.: Die Staatslehre Adam Müllers in ihrem Verhältnis zur deutschen Romantik, Tübingen 1929.
- ders.: History of Political Thought in Germany from 1789 to 1815, London 1936.
- Aristoteles: Politica, recogn. W. D. Ross, Oxford 1957.
- ders.: Ethica Nicomachea, ed. I. Bywater, Oxford 1957.
- Arnold, Fr.: Die Staatslehre des Kardinals Bellarmin. Ein Beitrag zur Rechts- und Staatsphilosophie des konfessionellen Zeitalters, München 1934.
- Aston, Tr. (ed.): Crisis in Europe 1560–1660, London 1970.
- Auerbach, M.: The Conservative Illusion, N. York 1959.
- Augustin: De civitate dei libri XXII, tertium recogn. B. Dombart, I–II, Lipsiae 1905–1909.
- Aulard, F.-A.: Les Orateurs de l'Assemblée Constituante, Paris 1882.
- Aylmer, G.: The King's Servants. The Civil Service of Charles I, London ²1974.
- Baader, Fr. v.: Schriften zur Gesellschaftsphilosophie, herausgegeben, eingeleitet und erläutert von J. Sauter, Jena 1925.
- ders.: Bemerkungen über einige antireligiöse Philosopheme unserer Zeit = Sämtliche Werke, I. Hauptabteilung, II, Leipzig 1851, 443–496.
- ders.: Über die sich so nennende rationale Theologie in Deutschland, a. a. O., 497–516.
- ders.: Über das durch unsere Zeit herbeigeführte Bedürfnis einer innigeren Vereinigung der Wissenschaft und der Religion = Sämtliche Werke, I. Hauptabteilung, I, 81–96.
- Back, P. E.: Herzog und Landschaft. Politische Ideen und Verfassungsprogramme in Schwedisch-Pommern um die Mitte des 17. Jh., Lund 1955.
- Bagge, D.: Les Idées Politiques en France sous la Restauration, Paris 1952.
- Bailey, D.: Writers against the Cardinal. A Study of the Pamphlets which attacked the Person and Policies of Cardinal Richelieu during the Decade 1630–1640, Ph. D., University of Minnesota 1973 (Masch.).
- Baldensperger, F.: Le mouvement des idées dans l'émigration française (1789–1815), I–II, Paris 1924.
- Barker, E.: Essays on Government, Oxford 1956.
- ders.: Political Thought in England 1848 to 1914, Oxford ²1963.
- Barner, W.: Barockrhetorik, Tübingen 1970.
- Barruel, A.: Abrégé des Mémoires pour servir à l'histoire du Jacobinisme, I–II, Hambourg 1800.

- Barth, H.: Die Idee der Ordnung. Beiträge zu einer politischen Philosophie, Erlenbach-Zürich-Stuttgart 1958.
- Barzun, J.: The French Race: Theories of its Origins and their social and political Implications prior to the Revolution, N. York 1932.
- Bastid, P.: Les Institutions Politiques de la Monarchie Parlementaire Française (1814-1848), Paris 1954.
- Battista, A.: Moral „privée“ et utilitarisme politique en France au XVII^e siècle = R. Schnur (Hg.), Staatsräson, Berlin 1975, 87-119.
- Bauer, Br.: Feldzüge der reinen Kritik, Nachwort von H.-M. Saß, Frankfurt a. M. 1968.
- Baumer, F.: The Early Tudor Theory of Kingship, New Haven 1940.
- Baumgartner, F.: Radical Reactionaries: the political Thought of the French Catholic League, Genf 1975.
- Behnen, M.: Das Preußische Wochenblatt (1851-1861). Nationalkonservative Publizistik gegen Ständestaat und Polizeistaat, Göttingen 1971.
- Beik, P.: The French Revolution seen from the Right. Social theories in Motion, 1789-1799, N. York 1970.
- Bekk, J.: Die Bewegung in Baden vom Ende des Februar 1848 bis zur Mitte des Mai 1849, Mannheim 1850.
- Below, G. v.: Die deutsche Geschichtsschreibung von den Befreiungskriegen bis zu unseren Tagen. Geschichte und Kulturgeschichte, Leipzig 1916.
- ders.: Territorium und Stadt. Aufsätze zur deutschen Verfassungs-, Verwaltungs- und Wirtschaftsgeschichte, München-Berlin 1923.
- Benoist, Ch.: L'influence des Idées de Machiavel, Recueil des Cours de l'Académie de Droit International de la Hague, IV (1925), 129-306.
- ders.: Le Machiavelisme. III: Après Machiavel, Paris 1936.
- Beyer, J.: Die Ständeideologien der Systemzeit und ihre Überwindung, Diss., Darmstadt 1942.
- Beza, Th.: De iure magistratum, hg. v. Kl. Sturm, Neukirchen-Vluyn 1965.
- Bickart, R.: Les Parlements et la notion de la souveraineté nationale au XVIII^e siècle, Paris 1932.
- Birtsch, G.: Die landständische Verfassung als Gegenstand der Forschung = D. Gerhard (Hg.), Ständische Vertretung in Europa im 17. und 18. Jh., Göttingen 1969, 32-55.
- Bitton, D.: The French Nobility in Crisis, 1560-1640, Stanford 1969.
- Blackstone, W.: Commentaries on the Laws of England, I-IV, London 1787.
- Blake, R.: The Conservative Party from Peel to Churchill, London 1970.
- Blet, P.: Le Clergé de France et la Monarchie. Etude sur les Assemblées Générales du Clergé de 1615 à 1666, Rome 1959.
- Bluche, F.: Les Magistrats du Parlement de Paris au XVIII^e siècle (1715-1771), Paris 1960.
- Bodin, J.: Six livres de la république, Paris 1576, 1583.
- Böckenförde, E.-W.: Die deutsche verfassungsgeschichtliche Forschung im 19. Jh. Zeitgebundene Fragestellungen und Leitbilder, Berlin 1961.
- ders.: Der Verfassungstyp der deutschen konstitutionellen Monarchie im 19. Jh. = E.-W. Böckenförde (Hg.), Moderne deutsche Verfassungsgeschichte (1815-1918), Köln 1972, 146-170.
- Boehm, M. H.: Körperschaftliche Bindung = Die Neue Front, hg. v. Moeller van den Bruck - H. v. Gleichen - M. H. Boehm, Berlin 1922, 35-46.
- ders.: Der Bürger im Kreuzfeuer, Göttingen 1933.
- Bolingbroke, Lord Viscount (Henry St. John): The Works, I-V, London 1754.
- Bonald, Vicomte de: Oeuvres, I-VIII, Bruxelles 1845.
- Bonney, R.: Political Change in France under Richelieu and Mazarin 1624-1661, Oxford 1978.
- Booms, H.: Die Deutschkonservative Partei. Preußischer Charakter, Reichsauffassung, Nationalbegriff, Düsseldorf 1954.

- Bosl, K.: Die Geschichte der Repräsentation in Bayern. Landständische Bewegung, landständische Verfassung, Landesausschuß und landständische Gesellschaft, München 1974.
- Bossuet, J.-B.: Oeuvres Complètes, ed. par une Société d'Ecclésiastiques, I-XII, Paris s. d.
- Boswell, J.: Life of Johnson, Oxford 1965.
- Botzenhart, E.: Die Staats- und Reformideen des Freiherrn von Stein. Ihre geistigen Grundlagen und ihre praktischen Vorbilder, Tübingen 1927.
- Boullainvilliers, H. de: Histoire de l'ancien Gouvernement de la France, avec XIV Lettres Historiques sur les Parlements ou Etats-Généraux, I-III, La Haye-Amsterdam 1729.
- ders.: Essais sur la Noblesse de France, Amsterdam 1732.
- Bowe, R.: The Origin of Political Authority. An Essay in Catholic Political Philosophy, Dublin 1955.
- Bowen, R.: German Theories of the Corporative State. With special reference to the period 1870-1919, N. York 1947.
- Brandes, E.: Politische Betrachtungen über die Französische Revolution, Jena 1790.
- ders.: Über einige bisherige Folgen der Französischen Revolution in Rücksicht auf Deutschland, Hannover 1792.
- ders.: Betrachtungen über den Zeitgeist in Deutschland in den letzten Decennien des vorigen Jahrhunderts, Hannover 1808.
- Braune, Fr.: Edmund Burke in Deutschland. Ein Beitrag zur Geschichte des historisch-politischen Denkens, Heidelberg 1917.
- Brewer, J.: Party Ideology and Popular Politics at the accession of George III, Cambridge 1976.
- Breysig, K.: Die Entwicklung des preußischen Ständethums von seinen Anfängen bis zum Regierungsantritt des Großen Kurfürsten, Berlin 1893.
- Briefe über Staatskunst, Berlin 1853.
- Brinton, C.: The Political Ideas of the English Romanticists, Oxford 1926.
- ders.: English Political Thought in the 19th Century, N. York 1962.
- Brissaud, J.: Un libéral du XVII^e siècle. Claude Joly (1607-1700), Paris 1898.
- Brodrick, J.: The economic morals of the Jesuits. An Answer to Dr. H. M. Robertson, Oxford 1934.
- Brown, W.: French Provincial Opinions at the time of the Fronde, Ph. D., Emory University 1973.
- Brückner, J.: Staatswissenschaften, Kameralismus und Naturrecht. Ein Beitrag zur Geschichte der politischen Wissenschaft in Deutschland des späten 17. und frühen 18. Jh., München 1977.
- Brunner, O.: Land und Herrschaft. Grundfragen der territorialen Verfassungsgeschichte Südostdeutschlands im Mittelalter, Brunn-München-Wien 1942.
- ders.: Adeliges Landleben und europäischer Geist, Salzburg 1949.
- ders.: Neue Wege der Verfassungs- und Sozialgeschichte, Göttingen 1968.
- Brutus, E. J.: Vindiciae contra tyrannos. Introduction, notes et index par A. Jouanna, J. Perrin, M. Soulié, A. Tournon et H. Weber, coordinateur, Genève 1979.
- Bruyant, A.: The Spirit of Conservatism, London 1929.
- Buchanan, G.: De iure regni apud Scotos, Edinburgi 1579.
- Buchda, G.: Reichsstände und Landstände in Deutschland im 16. und 17. Jh. = H. Rausch (Hg.), Die geschichtlichen Grundlagen der modernen Volksvertretung, II, Darmstadt 1974, 211-241.
- Bülbow-Cummerow, E. v.: Die europäischen Staaten nach ihren innern und äußeren Verhältnissen, Altona 1845.
- ders.: Preußen im Januar 1847, Berlin 1847.
- Büsch, O.: Militärsystem und Sozialleben im alten Preußen 1713-1807. Die Anfänge der sozialen Militarisierung der preußisch-deutschen Gesellschaft, Frankfurt a. M.-Berlin 1981.
- Burke, E.: The Works, I-XII, London 1899.

- ders.: The Correspondence, ed. by Th. Copeland, I-X, Chicago-Cambridge, 1958 ff.
- Butler, R.: About the Industrial Charter = Conservatism 1945-1950, Conservative Political Centre, London 1950, 45-48.
- Cadart, J.: Le Régime électoral des États Généraux de 1789 et ses origines (1302-1614), Paris 1952.
- Calleo, D.: Coleridge and the Idea of the Modern State, N. Haven - London 1966.
- Campe, F. v.: Die Lehre von den Landständen nach gemeinem Deutschen Staatsrechte, Lemgo und Detmold 1864.
- Caprariis, V. de: Propaganda e pensiero politico in Francia durante le guerre di religione, I (1559-1572), Napoli 1959.
- Carcassonne, E.: Montesquieu et le problème de la constitution française au XVIII^e siècle, Paris 1927.
- Carlyle, A.: Political Liberty. A History of the Conception in the Middle Ages and Modern Times, Liverpool-London 1963.
- Carlyle, R. - Carlyle, A.: A History of Medieval Political Theory in the West, I-VI, Edinburgh-London 1950.
- Carlyle, Th.: The Works (Centenary Edition), I-XXX, London 1896-1902.
- Carré, H.: La Noblesse de France et l'opinion public au XVIII^e siècle, Paris 1920.
- Carro, V.: Domingo de Soto y su doctrina jurídica. Estudio teológico-jurídico e histórico, Salamanca 1944.
- Carsten, F.: Princes and Parliaments in Germany. From the fifteenth to the eighteenth Century, Oxford 1959.
- Casey, J.: Tradition and Authority = M. Cowling (ed.), Conservative Essays, London 1978, 82-100.
- Cecile, H.: Conservatism, London 1912.
- Chabod, F.: Scritti su Machiavelli, Torino 1964.
- Chateaubriand, F.-R.: Oeuvres Complètes, I-XVI, Paris 1852-53.
- Cherel, A.: La pensée de Machiavel en France, Paris 1935.
- Chlumecky, P. v.: Carl von Zierotin und seine Zeit, 1564-1615, I-II, Brünn 1862-79.
- Chrimes, S.: English Constitutional Ideas in the fifteenth Century, Cambridge 1936.
- Christern, H.: Deutscher Ständestaat und englischer Parlamentarismus am Ende des 18. Jh., München 1939.
- Church, W.: Constitutional Thought in sixteenth-century France. A Study in the Evolution of Ideas, Cambridge Mass. 1941.
- ders.: Richelieu and Reason of State, Princeton 1972.
- Clarke, D.: The Conservative Faith in a Modern Age = Conservatism 1945-1950, Conservative Political Centre, London 1950, 7-42.
- Cobban, A.: Edmund Burke and the Revolt against the Eighteenth Century. A Study of the Political and Social Thinking of Burke, Wordsworth, Coleridge and Southey, London 1960.
- Coke, E.: Institutes of the Laws of England, First Part, I-II, London 1832; Second Part, Third Part, Fourth Part (je ein Band), London 1817.
- Cole, T.: Corporative Organization of the Third Reich, The Review of Politics, 2 (1940), 438-462.
- Coleridge, S.: The Table Talk and Omnia, ed. by T. Ashe, London 1905.
- ders.: Collected Works, Gen. Editor K. Coburn, I-XVI + Index, London-Princeton 1970 ff.
- Congar, Y.: Quod omnes tangit, ab omnibus tractari et approbari debet = H. Rausch (Hg.), Die geschichtlichen Grundlagen der modernen Volksvertretung. Die Entwicklung von den mittelalterlichen Korporationen zu den modernen Parlamenten, I, Darmstadt 1980, 115-182.
- Coote, C.: Conservatism and Liberalism, The Political Quarterly 24 (1953), 204-209.

- Coquille, G.: Les Oeuvres, I-II, Bordeaux 1703.
- Cornford, J.: The Transformation of Conservatism in the Late Nineteenth Century, Victorian Studies 7 (1963/64), 35-66.
- Cortés, Donoso S.: Obras completas. Edición, introducción y notas de C. Valverde, S. J., I-II, Madrid 1970.
- Costello, F.: The Political Philosophy of Luis de Molina, Rome 1974.
- Cottu, Ch.: De la nécessité d'une dictature, Paris, Mars 1830.
- Cowling, M.: 1867. Disraeli, Gladstone and Revolution. The Passing of the second Reform Bill, Cambridge 1967.
- ders.: The Present Position = M. Cowling (ed.), Conservative Essays, London 1978, 1-24.
- Crick, B.: The Strange Quest for an American Conservatism, The Review of Politics 17 (1955), 359-376.
- Darré, R. W.: Neuadel aus Blut und Boden, München 1930.
- Davies, A.: The Influence of George III on the Development of the Constitution, Oxford 1921.
- Dedieu, J.: Montesquieu et la tradition politique anglaise en France, Paris 1909.
- De Lolme, J.: Die Verfassung von England, dargestellt und mit der republikanischen Form und mit anderen europäischen Monarchien verglichen. Nach der Ausgabe letzter Hand zum ersten Male ins Deutsche übersetzt. Mit einer Vorrede begleitet von F. Dahlmann, Altona 1819.
- Demeter, K.: Das deutsche Offizierkorps in Gesellschaft und Staat 1650-1945, Frankfurt a. M. 1965.
- Dennert, J.: Ursprung und Begriff der Souveränität, Stuttgart 1964.
- Dickens, A.: Thomas Cromwell and the English Reformation, London 1959.
- ders.: The English Reformation, London 1964.
- Dickinson, H.: The eighteenth-century Debate on the Sovereignty of Parliament, Transactions of the Royal Historical Society, 5th Series, 26 (1976), 189-210.
- ders.: Liberty and Property. Political Ideology in Eighteenth-Century Britain, London 1977.
- Diederichs, E.: Politik des Geistes, Jena 1920.
- Disraeli, B.: Whigs and Whiggism. Political Writings, edited with an Introduction by W. Hutcheon, N. York 1914.
- Dock, A.: Revolution und Restauration über die Souveränität. Eine weitere Quellensammlung über den Begriff der höchsten Gewalt und zugleich ein Beitrag zur Geschichte der Staatstheorien, Straßburg 1900.
- Dodge, G.: The Political Theory of the Huguenots of the Dispersion. With special Reference to the Thought and Influence of Pierre Jurieu, N. York 1947.
- Doolin, P.: The Fronde, Cambridge Mass. 1935.
- Duroselle, J.-B.: Les débuts du catholicisme social en France (1822-1870), Paris 1951.
- Edelstein, M.: The Social Origins of the Episcopacy in the Reign of Francis I, French Historical Studies 8 (1974), 371-92.
- Égret, J.: L'aristocratie parlementaire française à la fin de l'Ancien Régime, Revue Historique 208 (1952), 1-14.
- ders.: La Pré-Révolution Française (1787-1788), Paris 1962.
- ders.: Louis XV et l'opposition parlementaire 1715-1774, Paris 1970.
- Eliot, T. S.: The Idea of a Christian Society, London 1951.
- Elm, L.: Traditionen, Wesen und Erscheinungsformen des Konservatismus am Beispiel der BRD = Konservatismus als politische Strömung und politische Ideologie. Beratung des Wissenschaftlichen Rates für Grundfragen des ideologischen Kampfes zwischen Sozialismus und Imperialismus, Berlin 1978, 7-24.
- Elton, G. (ed.): The Tudor Constitution. Documents and Commentary, Cambridge 1965.
- ders.: The Tudor Revolution in Government. Administrative Changes in the Reign of Henry VIII, Cambridge 1953.

- Epstein, Kl.: Die Ursprünge des Konservatismus in Deutschland. Der Ausgangspunkt: die Herausforderung durch die Französische Revolution 1770–1806, dt. Üb., Frankfurt a. M.–Berlin–Wien 1973.
- Epstein, L.: Politics of British Conservatism, *The American Political Science Review* 48 (1954), 27–48.
- Fawtier, R.: Das englische Parlament und die französischen Generalstände im Mittelalter = H. Rausch (Hg.), *Die geschichtlichen Grundlagen der modernen Volksvertretung*, I, Darmstadt 1980, 346–358.
- Feiling, K.: Principles of Conservatism, *The Political Quarterly* 24 (1953), 129–138.
- Fénelon, F.: Oeuvres Complètes, I–X, Paris 1851–52.
- Ferraz, M.: Histoire de la Philosophie en France au XIX^e siècle. II. Traditionalisme et Ultramontanisme, Paris 1880.
- Feuchtwanger, E.: Disraeli, Democracy and the Tory Party. Conservative Leadership and Organisation after the second Reform Bill, Oxford 1968.
- Figgis, J.: Political Thought from Gerson to Grotius, N. York 1960.
- ders.: the Divine Right of Kings, N. York 1965.
- Fine, S.: Laissez Faire and the General-Welfare State. A Study of Conflict in American Thought 1865–1901, Michigan 1956.
- Flammermont, J. (éd.): Remontrances du Parlement de Paris au XVIII^e siècle, I–III, Paris 1888–1898.
- Ford, F.: Robe and Sword. The Regrouping of the French Aristocracy after Louis XIV, Cambridge Mass. 1953.
- Forsthooff, E.: Rechtsstaat im Wandel. Verfassungsrechtliche Abhandlungen 1954–1973, München 1976.
- Fortescue, J.: De Laudibus Legum Anglie, ed. by S. B. Chrimes, Cambridge 1949.
- ders.: The Governance of England, ed. by Ch. Plummer, Oxford 1885.
- Fouque d'Arles: Esprit de la Monarchie Française ou le vrai Libéralisme, I–II, Paris 1836.
- Franzel, E.: Versuch einer Deutung des Konservativen, *Neues Abendland* (1956), 153–168.
- Frauendorfer, M.: Der ständische Gedanke und der Nationalsozialismus (= Nationalsozialistische Bibliothek, H. 40), München 1933.
- ders.: Idee und Gestalt der ständischen Neuordnung = Sonderdruck aus: Die Verwaltungsakademie. Ein Handbuch für den Beamten im nationalsozialistischen Staat, Berlin 1935.
- Freund, J.: La situation exceptionnelle comme justification de la raison d'Etat chez Gabriel Naudé = R. Schur (Hg.), *Staatsräson*, Berlin 1975, 141–164.
- Freund, M.: Konservatives Harakiri. Zu Mohlers Buch: Die Konservative Revolution. Die Gegenwart 7 (1952), 41–42.
- Freyberg, M. v.: Geschichte der bayerischen Landstände und ihrer Verhandlungen, I–II, Sulzbach 1828–29.
- Freytagh-Loringhoven, Freiherr v.: Der Gedankengehalt des Konservatismus, Berlin o.J. [1919?].
- Fried, F.: Das Ende des Kapitalismus, Jena 1931.
- Friedrich, C.: The Political Thought of Neo-Liberalism, *The American Political Science Review* 49 (1955), 509–525.
- ders.: The Philosophy of Law in Historical Perspective, Chicago 1958.
- Frühsorge, G.: Der politische Körper. Zum Begriff des Politischen im 17. Jh. und in den Romanen Christian Weises, Stuttgart 1974.
- Funke, G.: Die aus der unbeschränkten Theilbarkeit des Grundeigentums hervorgehenden Nachteile . . . , Hamburg–Gotha 1839.
- Gallouédec-Genuys, Fr.: Le Prince selon Fénelon, Paris 1963.
- Gamble, A.: The Conservative Nation, London–Boston 1974.

- Gentillet, I.: Discours contre Machiavel. A New Edition of the Original French Text with Selected Variant Readings, Introduction and Notes by A. d'Andrea and P. D. Stewart, Firenze 1974.
- Gentz, Fr. v.: Über den Ursprung und Charakter des Krieges gegen die französische Revolution, Berlin 1801.
- ders.: Fragmente aus der neuesten Geschichte des politischen Gleichgewichts in Europa, St. Petersburg 1806.
- ders.: Über den Unterschied zwischen den landständischen und Repräsentativ-Verfassungen = Wichtige Urkunden für den Reichszustand der deutschen Nation, mit eigenhändigen Anmerkungen von J.–L. Klüber, aus dessen Papieren mitgeteilt und erläutert v. C. Welcker, Mannheim 1845, 213–223.
- ders.: Schriften, hg. von G. Schlesier, I–V, Mannheim 1838–40.
- ders.: Briefe von und an F. v. G., hg. von F. C. Wittichen, I–III, München–Berlin 1909–13.
- ders.: Briefwechsel mit A. Müller 1800–1829, Stuttgart 1857.
- George, Ch. and Kath.: The Protestant Mind of the English Reformation 1570–1640, Princeton 1961.
- Gerhard, D.: Probleme ständischer Vertretungen im früheren 18. Jh. und ihre Behandlung in der gegenwärtigen internationalen Forschung = D. Gerhard (Hg.), *Ständische Vertretungen in Europa im 17. und 18. Jh.*, Göttingen 1969, 9–31.
- ders.: Gesammelte Aufsätze, Göttingen 1977.
- Gerlach E. L. v.: Das Königreich Gottes, *Evangelische Kirchenzeitung*, Nr. 32–35 (20.–30. April 1864), Sp. 377 ff.
- ders.: Aufzeichnungen aus seinem Leben und Wirken 1795–1879, hg. v. J. v. Gerlach, I–II, Schwerin i. Meckl. 1903.
- ders.: Deutschland um Neujahr 1870, Berlin 1870.
- ders.: Aus dem Nachlaß, herausgegeben und eingeleitet von H. Diwald, I–II, Göttingen 1970.
- Gerlach, L. v.: Denkwürdigkeiten. Nach seinen Aufzeichnungen hg. von seiner Tochter, I–II, Berlin 1891.
- Gerstenberger, H.: Der revolutionäre Konservatismus. Ein Beitrag zur Analyse des Liberalismus, Berlin 1969.
- dies.: Konservatismus in der Weimarer Republik = G.–K. Kaltenbrunner (Hg.), *Rekonstruktion des Konservatismus*, Freiburg 1972, 331–348.
- Gerstenmaier, E.: Was heißt heute konservativ?, *Der Monat* 14 (1961/62), H. 166, 27–30.
- Gierke, O.: Das deutsche Genossenschaftsrecht, I–IV, Berlin 1868–1913.
- ders.: Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien, Breslau 1913.
- Gilmore, M.: Argument from Roman Law in Political Thought 1200–1600, Cambridge Mass. 1941.
- Gleichen, H. v.: Staatsführung in Krisis = Die Neue Front, hg. v. Moeller van den Bruck–H. v. Gleichen–M. H. Boehm, Berlin 1922, 378–387.
- Godechot, J.: La Contre-Révolution. Doctrine et Action 1789–1804, Paris 1961.
- Göhring, M.: Weg und Sieg der modernen Staatsidee in Frankreich, Tübingen 1946.
- Görres, J.: Rheinischer Merkur, ausgewählt und eingeleitet von A. Duch, München 1921.
- ders.: Gesammelte Schriften, hg. von W. Schellberg–A. Dyroff–L. Just, I–XVI, Köln 1926 ff.
- Goetting, H.: Die sozialpolitische Idee in den konservativen Kreisen der vormärzlichen Zeit, Diss., Berlin 1920.
- Goldwater, B.: The Conscience of a Conservative, N. York 1960.
- Gollwitzer, H.: Die Standesherrn. Die politische und gesellschaftliche Stellung der Mediatisierten 1815–1918, Stuttgart 1957.
- Gooch, G.: Political Thought in England from Bacon to Halifax, London 1923.
- ders.: English Democratic Ideas in the Seventeenth Century 1927.
- Goodwin, A.: The social structure and economic and political attitudes of the French nobility

- in the eighteenth century = XII^e Congrès International des Sciences Historiques, Rapports, I, Horn-Wien 1965, 356–68.
- Gough, J.: *Fundamental Law in English Constitutional History*, Oxford 1955.
- Grandmaison, G. de: *La Congrégation (1801–1830)*, Paris 1889.
- Grassby, R.: *Social Status and commercial Enterprise under Louis XIV* = R. Kierstead (ed.), *State and Society in 17th Century France*, N. York 1975, 200–32.
- Grebig, H.: *Konservative gegen die Demokratie. Konservative Kritik an der Demokratie in der Bundesrepublik nach 1945*, Frankfurt a. M. 1971.
- dies.: *Aktuelle Theorien über Faschismus und Konservatismus. Eine Kritik*, Stuttgart 1974.
- Greenleaf, W.: *The Character of Modern British Conservatism* = R. Benewick-R. Berki-B. Parekh (eds.), *Knowledge and Belief in Politics. The Problem of Ideology*, London 1973, 177–212.
- Greiffenhagen, M.: *Das Dilemma des Konservatismus in Deutschland*, München 1971.
- Griffiths, G.: *Representative Government in Western Europe in the Sixteenth Century. Commentary and Documents for the Study of comparative constitutional History*, Oxford 1968.
- Grn.: Was heißt hier konservativ? (Siebzehn Schriftsteller, Politiker und Wissenschaftler antworten auf die Frage), *Die Zeit*, Nr. 43, 16. 10. 1981, S. 41/2.
- Gruder, V.: *The Royal Provincial Intendants. A Governing Elite in Eighteenth Century France*, Ithaca N. Y. 1968.
- Grundzüge konservativer Politik. In *Briefen konservativer Freunde über conservative Partei und Politik in Preußen*, Berlin 1868.
- Gurian, W.: *Die politischen und sozialen Ideen des französischen Katholizismus 1789–1914*, M. Gladbach 1929.
- ders.: *Der integrale Nationalismus in Frankreich. Charles Maurras und die Action Française*, Frankfurt a. M. 1931.
- Guyon, B.: *La pensée politique et sociale de Balzac*, Paris 1967.
- Habakkuk, H.: *English Landownership 1680–1740*, *The Economic History Review* 10 (1940), 2–17.
- ders.: *The Market for Monastic Property 1539–1603*, *The Economic History Review*, N. S. 10 (1957/58), 362–80.
- ders.: *La disparition du paysan anglais*, *Annales É. S. C.* 20 (1965), 649–63.
- Hahn, A.: *Die Berliner Revue. Ein Beitrag zur Geschichte der konservativen Partei zwischen 1855 und 1875*, Berlin 1934.
- Hailsham, Viscount: *The Conservative Case*, Harmondsworth 1959.
- Hale, M.: *Reflections by the Lrd. Cheife Justice Hale on Mr. Hobbes his Dialogue on the Lawe* = W. S. Holdsworth, *A History of English Law*, V, London 1924, 500–13.
- ders.: *The History of the Common Law of England and an Analysis of the Civil Part of the Law*, ed. by Ch. Runnigton, London 1820.
- Haller, C. L.: *Restauration der Staatswissenschaft, oder Theorie des natürlich-geselligen Zustands, der Chimäre des künstlich-bürgerlichen entgegengesetzt*, Winterthur 1820 ff.
- ders.: *Die Constitution der spanischen Cortes*, Winterthur 1820.
- Hamilton, B.: *Political Thought in Sixteenth Century Spain. A Study of the Political Ideas of Victoria, de Soto, Suarez and Molina*, Oxford 1963.
- Hartung, Fr.: *Volk und Staat in der deutschen Geschichte. Gesammelte Abhandlungen*, Leipzig 1940.
- ders.: *Staatsbildende Kräfte der Neuzeit. Gesammelte Aufsätze*, Berlin 1961.
- Haß, M.: *Die kurmärkischen Stände im letzten Drittel des sechzehnten Jahrhunderts*, München-Leipzig 1913.
- Hayden, J.: *France and the Estates General of 1614*, Cambridge 1974.
- Hayek, F.: *Die Verfassung der Freiheit*, dt. Üb., Tübingen 1971.

- Hearnshaw, F.: *Conservatism in England. An Analytical, Historical and Political Survey*, London 1933.
- Heer, Fr.: *Der Konservative und die Reaktion*, *Die neue Rundschau* 69 (1958), 490–527.
- Heffter, H.: *Die Kreuzzeitungspartei und die Kartellpolitik Bismarcks*, Leipzig 1927.
- Heinrich, G.: *Der Adel in Brandenburg-Preußen* = H. Rössler (Hg.), *Deutscher Adel II (1555–1740)*, Darmstadt 1965, 259–314.
- Heinrichs, K.: *Die politische Ideologie des französischen Klerus bei Beginn der großen Revolution*, Berlin 1934.
- Helbig, H.: *Der Wettinische Ständestaat. Untersuchungen zur Geschichte des Ständewesens und der landständischen Verfassung im Mittelhochdeutschland bis 1485*, Münster-Köln 1955.
- ders.: *Fürsten und Landstände im Westen des Reiches im Übergang vom Mittelalter zur Neuzeit*, *Rheinische Vierteljahrsblätter* 29 (1964), 32–72.
- ders.: *Der Adel in Kursachsen* = H. Rössler (Hg.), *Deutscher Adel II (1555–1740)*, Darmstadt 1965, 216–58.
- Heller, H.: *Rechtsstaat oder Diktatur?*, Tübingen 1930.
- Herberger, K.: *Die Stellung der preußischen Konservativen zur sozialen Frage 1848–1862*, München 1914.
- Herde, P.: *Deutsche Landstände und englisches Parlament. Bemerkungen zu F. L. Carsten, Princes and Parliaments in Germany*, *Historisches Jahrbuch* 80 (1961), 286–97.
- Hermens, F.: *Parlamentarismus oder was sonst?*, *Hochland* 29,1 (1931/2), 481–94.
- Hermes, K.: *Geschichte der neuesten Zeit von 1815–1852, I*, Braunschweig 1853.
- Hexter, J.: *The Reign of King Pym*, Cambridge Mass. 1941.
- ders.: *The Education of the Aristocracy in the Renaissance = Reappraisals in History. New Views on History and Society in Early Modern Europe*, London 1979, 45–70.
- ders.: *Storm over the Gentry, a. a. O.*, 117–162.
- Hilger, D.: *Edmund Burke und seine Kritik der Französischen Revolution*, Stuttgart 1960.
- Hill, Chr.: *Intellectual Origins of the English Revolution*, Oxford 1965.
- Hinrichs, E.: *Fürstenlehre und politisches Handeln im Frankreich Heinrichs IV. Untersuchungen über die politischen Denk- und Handlungsformen im Späthumanismus*, Göttingen 1969.
- Hintze, H.: *Staatseinheit und Föderalismus im alten Frankreich und in der Revolution*, Berlin-Leipzig 1928.
- Hintze, O.: *Staat und Verfassung. Gesammelte Abhandlungen zur allgemeinen Verfassungsgeschichte*, hg. von G. Oestreich mit einer Einleitung von F. Hartung, Göttingen 1962.
- ders.: *Regierung und Verwaltung. Gesammelte Abhandlungen zur Staats-, Rechts- und Sozialgeschichte Preußens*, hg. von G. Oestreich, Göttingen 1967.
- Historische Actenstücke über das Ständewesen in Österreich, I–VI*, Leipzig 1847–8.
- Hobsbawm, E. – Ranger, T. (eds.), *The Invention of Tradition*, Cambridge 1983.
- Höffner, J.: *Wirtschaftsethik und Monopole im 15. und 16. Jh.*, Jena 1941.
- Hölzle, E.: *Die Idee einer altgermanischen Freiheit vor Montesquieu*, München-Berlin 1925.
- Hofmann, H.: *Repräsentation. Studien zu Wort- und Begriffsgeschichte von der Antike bis ins 19. Jh.*, Berlin 1974.
- Holmes, G.: *British Politics in the Age of Anne*, London 1967.
- Hooker, R.: *The Works*, arranged by K. Kemble, I–III, Oxford 1865.
- Hotman, Fr.: *Francogallia*. Latin text by R. Giesey. Translated by J. Salmon, Cambridge 1972.
- Huber, E. R.: *Das persönliche Regiment Wilhelms II.* = E.-W. Böckenförde (Hg.), *Moderne deutsche Verfassungsgeschichte (1815–1918)*, Köln 1972, 282–310.
- Huber, V. A.: *Die Arbeiter und ihre Rathgeber*, Berlin 1863.
- ders.: *Sociale Fragen, I–VII*, Nordhausen 1863–69.
- Huntington, S.: *Conservatism as an Ideology*, *The American Political Science Review* 51 (1957), 454–73.

- Jarcke, C.: Vermischte Schriften, I-III, München 1839.
- Jászi, O. – Lewis, J.: Against the Tyrant. The Tradition and Theory of Tyrannicide, Glencoe Ill. 1957.
- Jensen, H. de Wet: Das konservative Welt- und Staatsbild Edmund Burkes, Anglia 58 (1934), 155–291.
- Joachimsmen, P.: Zur Psychologie des deutschen Staatsgedankens = Gesammelte Aufsätze, ausgewählt und eingeleitet von N. Hammerstein, Aalen 1970, 549–620.
- Joly, Cl.: Traité des Restitutions des Grands. Précédé d'une lettre touchant quelques points de la Morale Chrestienne, s. l. 1665.
- Jonas, E.: Die Volkskonservativen 1928–1933. Entwicklung, Struktur, Standort und staatspolitische Zielsetzung, Düsseldorf 1965.
- Jordan, E.: Die Entstehung der konservativen Partei und die preußischen Agrarverhältnisse vor 1848, München-Leipzig 1914.
- Judson, M.: The Crisis of the Constitution. An Essay in constitutional and political Thought in England 1603–1645, New Brunswick, N. J., 1949.
- Jünger, E.: Der Arbeiter. Herrschaft und Gestalt, Hamburg 1932.
- Jung, E.: Die Herrschaft der Minderwertigen, ihr Zerfall und ihre Auflösung durch ein neues Reich, Berlin 1930.
- ders.: Sinndeutung der deutschen Revolution, Oldenburg 1933.
- Kaltenbrunner, G.-K.: Der schwierige Konservatismus = Ders. (Hg.), Rekonstruktion des Konservatismus, Freiburg 1972, 19–54.
- ders.: Der Konservative im nachliberalen Zeitalter, Neue Rundschau 85 (1974), 7–22.
- Kaufmann, E.: Über die konservative Partei (1922) = Gesammelte Schriften, III, Göttingen 1960, 133–75.
- Keir, D.: The Constitutional History of Modern Britain 1485–1951, London 1957.
- Kelley, D.: Foundations of Modern Historical Scholarship. Language, Law, and History in the French Renaissance, N. York-London 1970.
- Kenyon, J. (ed.), The Stuart Constitution 1603–1688. Documents and Commentary, Cambridge 1969.
- Kern, F.: Recht und Verfassung im Mittelalter, Historische Zeitschrift 120 (1919), 1–79.
- ders.: Gottesgnadentum und Widerstandsrecht im früheren Mittelalter. Zur Entwicklungsgeschichte der Monarchie, Darmstadt 1973.
- Ketteler, W. E.: Die Arbeiterfrage und das Christentum, Mainz 1864.
- Kirk, R.: The conservative Mind from Burke to Santayana, Chicago 1953.
- ders.: Konservative in Aktion, Wort und Wahrheit 11 (1956), 203–9.
- Kleinhappl, J.: Der Staat bei Ludwig Molina, Innsbruck 1935.
- Klemperer, Kl. v.: Germany's New Conservatism. Its History and Dilemma in the Twentieth Century, Princeton 1957.
- Klett, E.: Konservativ, Merkur 25 (1971), 841–54.
- Kliger, S.: The Goths in England. A Study in Seventeenth and Eighteenth Century Thought, Cambridge Mass. 1952.
- Kluckhohn, P.: Persönlichkeit und Gemeinschaft. Studien zur Staatsauffassung der deutschen Romantik, Halle/Saale 1925.
- Kluxen, K.: Der englische Adel im 18. Jh. = R. Vierhaus (Hg.), Der Adel vor der Revolution. Zur sozialen und politischen Funktion des Adels im vorrevolutionären Europa, Göttingen 1971, 9–28.
- Knoll, A.: Der Zins in der Scholastik, Innsbruck-Wien-München, 1933.
- Knoll, J.: Der autoritäre Staat. Konservative Ideologie und Staatstheorie am Ende der Weimarer Republik = Lebendiger Geist. H.-J. Schoeps zum 50. Geburtstag von Schülern dargebracht, hg. von H. Diwald, Leiden-Köln 1959, 200–24.
- Knowles, D.: The Religious Orders in England. III: The Tudor Age, Cambridge 1961.

- Köhle, Kl.: Landesherr und Landstände in der Oberpfalz von 1400–1583. Sozialstruktur und politische Repräsentanz eines frühneuzeitlichen Territoriums, Diss., München 1969.
- Koenigsberger, H.: The Powers of Deputies in sixteenth century Assemblies = Studies Presented to the International Commission of Representative and Parliamentary Institutions, XXIV, Louvain-Paris 1961, 211–43.
- Kohn, H.: Die Idee des Nationalismus, Frankfurt a. M. 1962.
- Kondylis, P.: Die Aufklärung im Rahmen des neuzeitlichen Rationalismus, Stuttgart 1981.
- ders.: Die neuzeitliche Metaphysikkritik. Vom Spätmittelalter bis Kant, Athen 1983 (griechisch).
- ders.: Macht und Entscheidung. Die Herausbildung der Weltbilder und die Wertfrage, Stuttgart 1984.
- ders.: Reaktion-Restauration = Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland, hg. von O. Brunner-W. Conze-R. Koselleck, Bd. 5, Stuttgart 1984, 179–230.
- Konservatives Handbuch, hg. unter Mitwirkung der parlamentarischen Vertretung der konservativen Parteien, Berlin 1892.
- Konservatives Handbuch, hg. von Angehörigen beider konservativen Parteien, Berlin 1898.
- Koselleck, R.: Staat und Gesellschaft in Preußen 1815–1848 = H.-U. Wehler (Hg.), Moderne deutsche Sozialgeschichte, Köln 1976, 55–84.
- Koser, R.: Staat und Gesellschaft der neueren Zeit, Berlin 1908.
- ders.: Zur preußischen und deutschen Geschichte. Aufsätze und Vorträge, Stuttgart-Berlin 1921.
- Kossmann, E.: La Fronde, Leiden 1954.
- Kotowitsch, L.: Die Staatstheorien im Zeitalter der Fronde (1648–1652). Ein Beitrag zur Geschichte der Staatslehren im Frankreich des XVII. Jh., Aarau 1913.
- Kramnick, I.: Bolingbroke and his Circle. The Politics of Nostalgia in the Age of Walpole, Cambridge Mass. 1968.
- Kretzer, H.: Calvinismus und französische Monarchie im 17. Jh. Die politische Lehre der Akademien Sedan und Saumur, mit besonderer Berücksichtigung von Pierre du Moulin, Moyse Amyraut und Pierre Jurieu, Berlin 1975.
- Krollman, C. (Hg.), Die Selbstbiographie des Burggrafen Fabian zu Dohna, Leipzig 1905.
- Kuehnelt-Leddihn, E.: Neukonservatismus und Neuliberalismus, Neues Abendland 11 (1956), 121–34.
- Labatut, J.-P.: Les Ducs et Pairs de France au XVII^e siècle. Etude sociale, Paris 1972.
- Labitte, Ch.: De la démocratie chez les Prédicateurs de la Ligue, Paris 1865.
- Lacour-Gayet, G.: L'éducation politique de Louis XIV, Paris 1923.
- Lagarde, P.: Deutsche Schriften, Göttingen 1891, 1920.
- La Mennais, F.: Essai sur l'indifférence en matière de religion, 1–IV, Paris 1819–23.
- Landmann, M.: Der Souveränitätsbegriff bei den französischen Theoretikern von Jean Bodin bis auf Jean Jacques Rousseau. Ein Beitrag zur Entwicklungsgeschichte des Souveränitätsbegriffes, Leipzig 1896.
- Landshut, S.: Restauration und Neo-Konservatismus, Hamburger Jahrbuch für Wirtschafts- und Gesellschaftspolitik 2 (1957), 45–51.
- Landtagsakten von Jülich-Berg 1400–1610, hg. von G. v. Below, I, Düsseldorf 1895.
- Landtagsakten von Jülich-Berg 1624–1653, hg. von Fr. Küch, I, Düsseldorf 1925.
- Lanseros, M.: La Autoridad Civil en Fr. Suarez, Madrid 1949.
- Larkin, P.: Property in the eighteenth century with special reference to England and Locke, London 1930.
- Lassaigne, J.-D.: Les Revendications de la Noblesse de France pendant la Fronde = Studies presented to the International Commission for the History of Representative and Parliamentary Institutions, Louvain-Paris 1960, 267–75.

- Laures, J.: *The Political Economy of Juan de Mariana*, N. York 1928.
- Lee, P.: *The Ideal of the English Gentleman in the early seventeenth Century*, Ph. D., Columbia University 1966.
- Lehmberg, S.: *The Reformation Parliament 1529–1536*, Cambridge 1970.
- Lehnert, H.: *Kirchengut und Reformation. Eine kirchengeschichtliche Studie*, Erlangen 1935.
- Lemaire, A.: *Les Lois fondamentales de la Monarchie Française d'après les théoriciens de l'ancien régime*, Paris 1907.
- Lemberg, E.: *Nationalismus*, I, Hamburg 1964.
- Lenz, Fr.: *Agrarlehre und Agrarpolitik der deutschen Romantik*, Berlin 1912.
- Leo, H.: *Sendschreiben an J. Görres*, Halle 1838.
- ders.: *Nominalistische Gedankenspäne, Reden und Aufsätze*, Halle 1864.
- Leroy, M.: *Histoire des Idées sociales en France*, I–III, Paris 1946–54.
- Lewin, W.: *Claude de Seyssel. Ein Beitrag zur politischen Ideengeschichte des 16. Jh.*, Heidelberg 1933.
- Lewis, E.: *Medieval Political Ideas*, I–II, London 1954.
- Lewis, G.: *The Metaphysics of Conservatism*, *The Western Political Quarterly* 6 (1953), 728–41.
- Lewy, G.: *A Study of the Political Philosophy of J. de Mariana*, Genf 1960.
- Lhomme, J.: *La grande bourgeoisie au pouvoir (1830–1880). Essai sur l'histoire sociale de la France*, Paris 1960.
- Lieberich, H.: *Landherren und Landleute. Zur politischen Führungsschicht Baierns im Spätmittelalter*, München 1964.
- Lindeck, I.: *Der Einfluß der staatsrechtlichen und bekenntnismäßigen Anschauungen auf die Auseinandersetzung zwischen Landesfürstentum und Ständen in Österreich während der Gegenreformation*, *Jahrbuch der Gesellschaft für die Geschichte des Protestantismus im ehemaligen Österreich* 60 (1939), 81–104 und 61 (1940), 15–38.
- Link, Chr.: *Herrschaftsordnung und bürgerliche Freiheit. Grenzen der Staatsgewalt in der älteren deutschen Staatslehre*, Wien-Köln-Graz 1979.
- Lippincott, B.: *Victorian Critics of Democracy* (Carlyle, Ruskin, Arnold, Stephen, Maine, Lecky), Minneapolis 1938.
- Lissarague, S.: *La Teoria del Poder en Fr. de Vitoria*, Madrid 1947.
- Locke, R.: *French Legitimists and the Politics of Moral Order in the Early Third Republic*, Princeton 1974.
- Locmaria, Comte de: *Des Devoirs et des Intérêts des Légiimistes*, Paris 1834.
- Löwenthal, R.: *Kontinuität und Diskontinuität: Zur Grundproblematik des Symposions = K. Bosl (Hg.), Der moderne Parlamentarismus und seine Grundlagen in der ständischen Repräsentation*, Berlin 1977, 341–56.
- Lombard, A.: *L'Abbé Du Bos. Un initiateur de pensée moderne (1670–1742)*, Paris 1913.
- Lorenzi, P.-A.: *Die ökonomische Geschichtsauffassung und Justus Möser. Eine soziologische Studie*, Diss., Heidelberg 1958 (Masch.).
- Lousse, E.: *La Société de l'Ancien Régime. Organisation et représentation corporatives*, I, Louvain-Bruges 1943.
- ders.: *Parlamentarismus oder Korporatismus? Die Ursprünge der Ständevertretungen = H. Rausch (Hg.), Die geschichtlichen Grundlagen der modernen Volksvertretung*, I, Darmstadt 1980, 278–302.
- Lutz, H.: *Ragione di Stato und christliche Staatsethik im 16. Jh.*, Münster 1961.
- Lyon, B.: *Medieval Constitutionalism: a Balance of Power = Studies Presented to the International Commission of Representative and Parliamentary Institutions*, XXIV, Louvain-Paris 1961, 155–83.
- McClelland, Ch.: *The German Historians and England. A Study in Nineteenth-Century Views*, Cambridge 1971.

- McDowell, R.: *British Conservatism 1832–1914*, London 1959.
- McIlwain, Ch.: *The High Court of Parliament and its supremacy. An historical study at the boundaries between legislation and adjudication in England*, New Haven 1910.
- ders.: *The Growth of the political Thought in the West. From the Greeks to the End of the Middle Ages*, New York 1950.
- Maier, H.: *Die ältere deutsche Staats- und Verwaltungslehre (Polizeiwissenschaft). Ein Beitrag zur Geschichte der politischen Wissenschaft in Deutschland*, Neuwied-Berlin 1966.
- ders.: *Probleme einer demokratischen Tradition in Deutschland, Geschichte in Wissenschaft und Unterricht* 18 (1967), 394–415.
- ders.: *Politische Wissenschaft in Deutschland. Aufsätze zur Lehrtradition und Bildungspraxis*, München 1969.
- Maistre, J. de: *Oeuvres*, Montrouge (Migne), 1841.
- ders.: *Les Soirées de Saint-Petersbourg ou Entretiens sur le Gouvernement temporel de la Providence*, I–II, Bruxelles 1837.
- Mallet du Pan: *Betrachtungen über die Natur der französischen Revolution und die Ursachen, die ihre Dauer verlängern. Aus dem Französischen übersetzt von G. Schatz und mit einigen Zusätzen von M. J. G. Dyk*, Leipzig 1794.
- ders.: *Mémoires et Correspondance pour servir à l'histoire de la Révolution Française. Recueillis et mis en ordre par A. Sayous*, I–II, Paris 1851.
- Mandrou, R.: *Classes et luttes de classes en France au début du XVII^e siècle*, Messina-Firenze 1965.
- Mandt, H.: *Tyrannislehre und Widerstandsrecht. Studien zur deutschen politischen Theorie des 19. Jh.*, Darmstadt-Neuwied 1974.
- Mannheim, K.: *Das konservative Denken = Wissenssoziologie. Auswahl aus dem Werk eingeleitet und herausgegeben von K. Wolff*, Berlin-Neuwied, 408–508.
- Marcks, E.: *Gaspard von Coligny. Sein Leben und das Frankreich seiner Zeit*, I, Stuttgart 1892.
- Marianae, I.: *De rege et regis institutione libri III*, Toleti 1599.
- ders.: *De monetarum mutatione = J. Laures, The Political Economy of Juan de Mariana*, N. York 1928, 241–303.
- Martin, A. v.: *Autorität und Freiheit in der Gedankenwelt Ludwig v. Gerlachs*, *Archiv für Kulturgeschichte* 20 (1930), 155–82.
- ders.: *Weltanschauliche Motive im altkonservativen Denken = G.-K. Kaltenbrunner (Hg.), Rekonstruktion des Konservatismus*, Freiburg 1972, 139–80.
- Martiny, Fr.: *Die Adelsfrage in Preußen vor 1806 als politisches und soziales Problem*, Diss., Halle/Saale 1938.
- Marwitz, Fr. v.: *Lebensbeschreibung, Tagebücher, Politische Texte und Briefe*, hg. von Fr. Meusel, I–II (1+2), Berlin 1908–1913.
- Marx, K. – Engels, Fr.: *Gesammelte Schriften von 1852 bis 1862*, hg. von N. Rjasanoff, I–II, Stuttgart 1917.
- Maschke, G.: *Ende und Zukunft des Konservatismus. Gedanken zum Thema der Saison, Frankfurter Allgemeine Zeitung*, Nr. 85, 12. 4. 1975 (Tiefdruckbeilage).
- ders.: *Zum „Leviathan“ von Carl Schmitt = C. Schmitt, Der Leviathan in der Staatslehre des Thomas Hobbes*, Köln 1982, 179–244.
- Mattei, R. de: *Il problema della „Ragione di Stato“ nel Seicento*, I–XV, *Rivista Internazionale di Filosofia del Diritto* 26 (1949) – 38 (1961).
- ders.: *Dal premachiavellismo all' antimachiavellismo europeo del Cinquecento*, Roma 1956.
- ders.: *Dal premachiavellismo all' antimachiavellismo*, Firenze 1969.
- Maurras, Ch.: *Enquête sur la Monarchie*, Paris 1916.
- ders.: *Romantisme et Révolution*, Paris 1922.
- ders.: *Mes Idées Politiques. Texte établi par P. Chardon*, Paris 1937.
- Mayer, E.: *Vom Adel und der Oberschicht*, Langensalza 1928.

- Meinecke, Fr.: Die Tagebücher des Generals v. Gerlach, Historische Zeitschrift 70 (1893), 52–80.
- ders.: Weltbürgertum und Nationalstaat. Studien zur Genesis des deutschen Nationalstaates, München-Berlin 1922.
- Meisner, H.: Die Lehre vom monarchischen Prinzip im Zeitalter der Restauration und des deutschen Bundes, Breslau 1913.
- Mellon, St.: The Political Uses of History. A Study of Historians in the French Restoration, Stanford Cal. 1958.
- Mémoires de Condé servant d'éclaircissement et de Preuves à l'Histoire de M. de Thou, I–V, Londres-Paris 1743.
- Mémoires de la Ligue, contenant les événements les plus remarquables depuis 1576 jusqu'à la paix accordée entre le Roi de France et le Roi d'Espagne en 1598, Nouvelle édition, I–VI, Amsterdam 1758.
- Mercier, Ch.: Les théories politiques des calvinistes en France au cours des guerres de religion, Bulletin de la Société de l'Histoire du Protestantisme 83 (1934), 225–60, 381–415.
- Merk, W.: Der Gedanke des gemeinen Besten in der deutschen Staats- und Rechtsentwicklung = Festschrift Alfred Schultze zum 70. Geburtstag, Weimar 1934, 451–520.
- Merkatz, H.-J. v.: Die konservative Funktion. Ein Beitrag zur Geschichte des politischen Denkens, München 1957.
- Mesnard, P.: L'essor de la philosophie politique au XVI^e siècle, Paris 1969.
- Meyer, Fr.: Conservatism = R. Goldwin (ed.), Left, Right and Center. Essays on Liberalism and Conservatism in the United States, Chicago 1965, 1–17.
- Meyer, G.: Das parlamentarische Wahlrecht, Berlin 1901.
- Mills, C. Wright: The Conservative Mood = Power, Politics and People. The Collected Essays of C. W. M. ed. by I. L. Horowitz, N. York 1970, 208–20.
- Mingay, G.: English Landed Society in the Eighteenth Century, London-Toronto 1963.
- Mirabeau, Marquis de: L'Ami des Hommes ou Traité de la Population. Avec une préface et une notice biographique par M. Rouxel, Paris 1883.
- Mitrofanov, P. v.: Joseph II. Seine politische und kulturelle Tätigkeit, I–II, Wien-Leipzig 1910.
- Moeller van den Bruck, A.: Das Dritte Reich, Berlin 1926.
- ders.: Das ewige Reich, hg. von H. Schwarz, I–III, Breslau 1933–1935.
- Möser, J.: Sämtliche Werke. Historisch-kritische Ausgabe, hg. von der Akademie der Wissenschaften zu Göttingen, I–XIV, Oldenburg-Berlin-Hamburg, 1943 ff.
- Mohl, R.: Dissertatio inauguralis sistens discrimen ordinum provincialium et constitutionis repraesentativae, Tubingae MDCCCXXI.
- Mohler, A.: Konservativ 1962, Der Monat 14 (1961/2), H. 163, 23–9.
- ders.: Die konservative Revolution in Deutschland 1918–1932. Ein Handbuch, Darmstadt 1972.
- ders.: Von rechts gesehen, Stuttgart 1974.
- Molinae, L.: De iustitia et iure, I–II, Moguntiae 1602.
- Moltke, M. v.: Ueber den Adel und dessen Verhältniß zum Bürgerstande, Hamburg 1830.
- Mommsen, W. (Hg.): Deutsche Parteiprogramme, München 1960.
- Montlosier, Comte de: De la Monarchie française depuis son établissement jusqu'à nos jours, I–VII, Paris 1814–1822.
- ders.: Mémoire à consulter sur un système religieux et politique tendant à renverser la religion, la société et le trône, Paris 1826.
- Moreau, C.: Bibliographie des Mazarinades, I–III, Paris 1850–1851.
- ders.: (éd.): Choix de Mazarinades, I–II, Paris 1853.
- Morris, Chr.: Political Thought in England. Tyndale to Hooker, Oxford 1953.
- Mortari, V.: Diritto romano e diritto nazionale in Francia nel secolo XVI, Milano 1962.
- Moser, J. J.: Von den Teutschen Reichs-Stände Landen, deren Landständen, Unterthanen,

- Landes-Freyheiten, Beschwerden, Schulden und Zusammenkünften, Frankfurt-Leipzig 1769.
- Mosse, G.: The Struggle for Sovereignty in England. From the Reign of Queen Elizabeth to the Petition of Right, N. York 1968.
- Moulinié, H.: De Bonald. La vie, la carrière politique, la doctrine, Paris 1916.
- Mousnier, R.: L'Assassinat d'Henri IV. Le Problème du tyrannicide et l'affermissement de la monarchie absolue, Paris 1964.
- ders.: Fureurs paysannes. Les paysans dans les révoltes du XVII^e siècle, Paris 1967.
- ders.: La Vénalité des Offices sous Henri IV et Louis XIII, Paris 1971.
- Müller, A.: Von der Notwendigkeit einer theologischen Grundlage der gesamten Staatswissenschaften und der Staatswissenschaft insbesondere (1818) = Summa, H. 1, 1917, 171–96.
- ders.: Die Elemente der Staatskunst (Wiedergabe der Originalausgabe), Leipzig 1936.
- ders.: Ausgewählte Abhandlungen, hg. von J. Baxa, Jena 1931.
- ders.: Versuche einer neuen Theorie des Geldes, hg. von H. Lieser, Jena 1922.
- ders.: Kritische/ästhetische und philosophische Schriften, hg. von W. Schroeder und W. Siebert, I–II, Neuwied-Berlin 1967.
- Müller, Chr.: Das imperative und freie Mandat. Überlegungen zur Lehre von der Repräsentation des Volkes, Leiden 1966.
- Müller-Armack, A.: Staatsidee und Wirtschaftsordnung im neuen Reich, Berlin 1933.
- ders.: Das Jahrhundert ohne Gott. Zur Kulturosoziologie unserer Zeit, Münster 1948.
- ders.: Diagnose unserer Gegenwart. Zur Bestimmung unseres geistesgeschichtlichen Standorts, Gütersloh 1949.
- Müsebeck, E.: Die märkische Ritterschaft und die preußische Verfassungsfrage von 1814 bis 1820, Deutsche Rundschau 174 (1918), 158–82, 354–76.
- Munz, P.: The Place of Hooker in the History of Thought, London 1952.
- Muralt, F.: Die „Ring“-Bewegung, Hochland 29, 2 (1932), 289–99.
- Myers, A.: The English Parliament and the French Estates-General in the Middle Ages = Studies Presented to the International Commission of Representative and Parliamentary Institutions, XXIV, Louvain-Paris 1961, 139–53.
- Näf, W.: Staat und Staatsgedanke. Vorträge zur neueren Geschichte, Bern 1935.
- ders.: Herrschaftsverträge und die Lehre vom Herrschaftsvertrag, Schweizer Beiträge zur allgemeinen Geschichte 7 (1949), 26–52.
- ders.: Frühformen des „modernen Staates“ im Spätmittelalter, Historische Zeitschrift 171 (1951), 225–43.
- Namier, L.: The Structure of Politics at the Accession of George III, London 1957.
- Naumann, F.: Demokratie und Kaisertum, Berlin-Schöneberg 1905.
- Nawroth, E.: Die Sozial- und Wirtschaftsphilosophie des Neoliberalismus, Heidelberg 1962.
- Neale, J. E.: The Elizabethan House of Commons, Harmondsworth 1963.
- Neumann, S.: Die Stufen des preußischen Konservatismus. Ein Beitrag zum Staats- und Gesellschaftsbild Deutschlands im 19. Jh., Berlin 1930.
- ders.: Die deutschen Parteien. Wesen und Wandel nach dem Kriege, Berlin 1932.
- Nipperdey, Th.: Interessenverbände und Parteien in Deutschland vor dem Ersten Weltkrieg = H.-U. Wehler (Hg.), Moderne deutsche Sozialgeschichte, Köln 1976, 369–88.
- Nisbet, R.: The Quest for Community. A Study in the Ethics of Order and Freedom, N. York 1953.
- Nolte, E.: Der Faschismus in seiner Epoche. Die Action Française. Der italienische Faschismus. Der Nationalsozialismus, München 1979.
- Novalis: Briefe und Werke, hg. von E. Wasmuth, I–III, Berlin 1943.
- Nürnberger, R.: Die Politisierung des französischen Protestantismus. Calvin und die Anfänge des protestantischen Radikalismus, Tübingen 1948.

- Oakeshott, M.: On being Conservative (1956) = Rationalism in Politics and other Essays, London 1962, 168–96.
- Oakley, Fr.: Jacobean Political Theology: the Absolute and Ordinary Powers of the King, *Journal for the History of Ideas* 29 (1968), 323–46.
- Oechslin, J.-J.: *Le Mouvement Ultra-Royaliste sous la Restauration. Son Idéologie et son Action Politique* (1814–1830), Paris 1960.
- Oestreich, G.: Ständetum und Staatsbildung in Deutschland, *Der Staat* 6 (1967), 61–73.
- ders.: Geist und Gestalt des frühmodernen Staates. Ausgewählte Aufsätze, Berlin 1969.
- Ogg, D.: England in the Reigns of James II and William III, Oxford 1969.
- Osgood, S.: French Royalism under the Third and Fourth Republics, The Hague 1960.
- O'Sullivan, N.: Conservatism, London 1976.
- Palmer, R.: Das Zeitalter der demokratischen Revolution. Eine vergleichende Geschichte Europas und Amerikas von 1760 bis zur französischen Revolution, dt. Üb., Frankfurt a. M. 1970.
- Papen, F. v.: Rede vor dem Universitätsbund Marburg am 17. 6. 1934 = Der Prozeß gegen die Hauptkriegsverbrecher vor dem Internationalen Militärgerichtshof, XL, Nürnberg 1949, 543–58.
- Paulsen, I.: Victor Aimé Huber als Sozialpolitiker, Leipzig 1931.
- Petersohn, J.: Fürstenmacht und Ständetum in Preußen während der Regierung Herzog Georg Friedrichs 1578–1603, Würzburg 1963.
- Petit, J.: L'Assemblée des Notables de 1626–1627, Paris 1936.
- Picot, G.: Histoire des États Généraux considérés au point de vue de leur influence sur le gouvernement de la France de 1355 à 1614, I–IV, Paris 1872.
- Pinto-Duschinski, M.: The Political Thought of Lord Salisbury 1854–1868, London 1967.
- Plumb, J.: The Growth of Political Stability in England 1675–1725, London 1967.
- Pocock, J.: The Ancient Constitution and the Feudal Law. A Study of English Historical Thought in the seventeenth Century, Cambridge 1957.
- Poetzsch, A.: Studien zur frühromantischen Politik und Geschichtsauffassung, Leipzig 1907.
- Pole, R.: Apologia ad Carolum Quintum Caesarum super quattuor libris a se scriptis de unitate ecclesiae (1539) = H. Lutz, *Ragione di stato* . . . (s. oben), 49–62.
- Polin, R.: Le concept de Raison d'Etat avant la lettre d'après Machiavel = R. Schnur (Hg.), *Staatsräson*, Berlin 1975, 27–42.
- Porschnew, B.: Die Volksaufstände in Frankreich vor der Fronde 1623–1648, dt. Üb., Leipzig 1954.
- Post, G.: Studies in Medieval Legal Thought. Public Law and the State 1100–1322, Princeton 1964.
- Powicke, M.: The Reformation in England, Oxford 1941.
- Puau, F.: Les défenseurs de la souveraineté du peuple sous le règne de Louis XIV, Paris 1917.
- Pütter, J. S.: Kurzer Begriff des Teutschen Staatsrechts, Göttingen 1768.
- ders.: Historische Entwicklung der heutigen Staatsverfassung des Teutschen Reichs, I–III, Göttingen 1798–1799.
- Puhle, H.-H.: Agrarische Interessenpolitik und preußischer Konservatismus im wilhelminischen Reich (1893–1914). Ein Beitrag zur Analyse des Nationalismus in Deutschland am Beispiel des Bundes der Landwirte und der Deutsch-Konservativen Partei, Hannover 1966.
- Quabbe, G.: Tar a Ri. Variationen über ein konservatives Thema, Berlin 1927.
- Quaritsch, H.: Staat und Souveränität. I: Die Grundlagen, Frankfurt a. M. 1970.
- Raab, F.: The English Face of Machiavelli. A Changing Interpretation 1500–1700, London-Toronto 1964.
- Rachel, H.: Der Große Kurfürst und die ostpreußischen Stände 1640–1688, Leipzig 1905.

- Rachfahl, F.: Der dualistische Ständestaat in Deutschland, *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft im Deutschen Reich*, N. F. 26 (1902), 165–219.
- Radowicz, J. v.: Ausgewählte Schriften, hg. von W. Corvinus, I–III, Regensburg 1911.
- ders.: Ausgewählte Schriften und Reden, hg. von F. Meinecke, München 1921.
- Ramlow, G.: Ludwig von der Marwitz und die Anfänge konservativer Politik und Staatsanschauung in Preußen, Berlin 1930.
- Raumer, K. v.: Absoluter Staat, Korporative Libertät, persönliche Freiheit, *Historische Zeitschrift* 183 (1957), 55–96.
- Rauschnig, H.: Die Revolution des Nihilismus. Kulisse und Wirklichkeit im Dritten Reich, Zürich-N. York 1938.
- Rehberg, A. W.: Untersuchungen über die Französische Revolution nebst kritischen Nachrichten von den merkwürdigsten Schriften welche darüber in Frankreich erschienen sind, I–II, Hannover-Osnabrück 1793.
- ders.: Über den deutschen Adel, Göttingen 1803.
- ders.: Über den Code Napoleon und dessen Einführung in Deutschland, Hannover 1814.
- Reinhard, M.: Élite et noblesse dans la seconde moitié du XVIII^e siècle, *Revue d'histoire moderne et contemporaine* 3 (1956), 5–37.
- Rémond, R.: La droite en France de 1815 à nos jours. Continuité et diversité d'une tradition politique, Paris 1954.
- Resnick, D.: The White Terror and the Political Reaction after Waterloo, Cambridge Mass. 1966.
- Rexius, G.: Studien zur Staatslehre der historischen Schule, *Historische Zeitschrift* 107 (1911), 496–539.
- Ribadaneira, P.: Tratado de la Religion y Virtudes que deve tener el Principe Christiano para gobernar y conservar sus Estados. Contra lo que Nicolas Machiavelo y los Politicos deste tiempo enseñan, Anvers 1597.
- Ribhegge, W.: Konservatismus. Versuch zu einer kritischen-historischen Theorie = H.-G. Schumann (Hg.), *Konservatismus*, Köln 1974, 112–136.
- Richard, G.: La Noblesse de France et les sociétés par actions à la fin du XVIII^e siècle, *Revue d'histoire économique et sociale* 40 (1962), 484–523.
- Richthofen, E.: Über die historischen Wandlungen in der Stellung der autoritären Parteien zur Arbeiterschutzgesetzgebung und die Motive dieser Wandlungen, Diss., Heidelberg 1901.
- Riemer, S.: Die Staatsanschauung des Grafen d'Antraigues in seiner Denkschrift über die Generalstände, Berlin 1934.
- Ritter, G.: Die preußischen Konservativen und Bismarcks deutsche Politik 1858–1871, Heidelberg 1913.
- ders.: Stein. Eine politische Biographie, I–II, Stuttgart-Berlin 1931.
- Ritter, G. A.: Parlament und Demokratie in Großbritannien. Studien zur Entwicklung und Struktur des politischen Systems, Göttingen 1972.
- Rivarol, A.: Oeuvres Complètes, I–V, Paris 1808.
- Roberts, D.: Tory Paternalism and Social Reform in Early Victorian England, *The American Historical Review* 63 (1958), 323–37.
- Rochau, L. A. v.: Grundsätze der Realpolitik. Angewendet auf die staatlichen Zustände Deutschlands. Herausgegeben und eingeleitet von H.-U. Wehler, Frankfurt a. M.-Berlin-Wien, 1972.
- Roche, A.: Les Idées Traditionalistes en France de Rivarol à Charles Maurras, Urbana Ill. 1937.
- Roe, Fr.: The Social Philosophy of Carlyle and Ruskin, London 1922.
- Röder, A.: Der deutsche Konservatismus und die Revolution, Gotha 1920.
- Röpke, W.: Die Gesellschaftskrisis der Gegenwart, Erlenbach-Zürich, 1942.
- ders.: Civitas humana. Grundfragen der Gesellschafts- und Wirtschaftsreform, Erlenbach-Zürich 1946.

- Rössler, H.: Adelsethik und Humanismus = H. Rössler (Hg.), Deutscher Adel, I (1430–1555), Darmstadt 1965, 234–50.
- Rogister, J.: The crisis of 1753–4 in France and the Debate on the Nature of the Monarchy and of the fundamental Laws = R. Vierhaus (Hg.), Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze, Göttingen 1977, 105–20.
- Rohden, P.: Deutscher und französischer Konservatismus, Die Dioskuren 3 (1924), 90–138.
- ders.: Joseph de Maistre als politischer Theoretiker. Ein Beitrag zur Geschichte des konservativen Staatsgedankens in Frankreich, München 1929.
- Romein, J.: Über den Konservatismus als historische Kategorie = Wesen und Wirklichkeit des Menschen, Festschrift für H. Plessner, hg. von Kl. Ziegler, Göttingen 1957, 215–44.
- Rommen, H.: Die Staatslehre von Fr. Suarez, M. Gladbach 1926.
- Roscher, W.: Geschichte der Nationalökonomie in Deutschland, München 1874.
- Rosenberg, H.: Bureaucracy, Aristocracy and Autocracy. The Prussian Experience 1660–1815, Cambridge Mass. 1958.
- ders.: Probleme der deutschen Sozialgeschichte, Frankfurt a. M. 1969.
- Rossi, P.: I Filosofi e la Macchine, Milano 1962.
- Rosser, C.: Conservatism in America, N. York 1956.
- Rowland, W.: Das Wesen des Konservatismus und die Erscheinungsformen konservativen Denkens, Der Staat 8 (1969), 349–61.
- Rudhart, I.: Die Geschichte der Landstände in Bayern, I–II, Heidelberg 1816.
- Ruskin, J.: The Works, ed. by E. T. Cook and A. Wedderburn, I–XXXIX, London 1903–1912.
- Saile, W.: Hermann Wagener und sein Verhältnis zu Bismarck. Ein Beitrag zur Geschichte des konservativen Sozialismus, Tübingen 1958.
- Saint-Simon: Mémoires. Texte établi et annoté par G. Trug, I–VII, Paris 1959–1961.
- Salisbury, Lord: On Politics. A selection from his articles in the Quarterly Review, 1860–1883. Ed. with an introduction and notes by P. Smith, Cambridge 1972.
- Salmon, J.: The French Religious Wars in English Political Thought, Oxford 1959.
- ders.: Society in Crisis. France in the Sixteenth Century, London 1975.
- Salomon, G.: Das Mittelalter als Ideal in der Romantik, München 1922.
- Sanchez Agesta, L.: El Concepto del Estado en el pensamiento español del siglo XVI, Madrid 1959.
- Savigny, Fr. v.: Vom Beruf unsrer Zeit für Gesetzgebung und Rechtswissenschaft, Heidelberg 1814.
- Savorgnan, F.: Das Aussterben der adeligen Geschlechter. Statistisch-soziologischer Beitrag über die Fruchtbarkeit der souveränen und mediatisierten Häuser, Jahrbuch für Soziologie 1 (1925), 320–40.
- Schäffle, A.: Der moderne Adelsbegriff (1856) = Gesammelte Aufsätze, I, Tübingen 1885, 57–104.
- Scheel, W.: Das „Berliner Politische Wochenblatt“ und die politische und soziale Revolution in Frankreich und England. Ein Beitrag zur konservativen Zeitkritik, Göttingen 1964.
- Schell, G.: Englisches Rechtsdenken im Werk Edmund Burkes, Diss., Frankfurt a. M. 1955.
- [Schenk zu Schweinsberg:] Über den niederen Adel und dessen politische Stellung in Deutschland, Stuttgart-Sigmaringen 1842.
- Scheuner, U.: Staatsräson und religiöse Einheit des Staates. Zur Religionspolitik in Deutschland im Zeitalter der Glaubensspaltung = R. Schnur (Hg.), Staatsräson, Berlin 1975, 363–405.
- ders.: Volkssouveränität und Theorie der parlamentarischen Vertretung. Zur Theorie der Volksvertretung in Deutschland 1815–1848 = K. Bosl (Hg.), Der moderne Parlamentarismus und seine Grundlagen in der ständischen Repräsentation, Berlin 1977, 296–340.
- Schlegel, Fr.: Werke. Kritische Ausgabe hg. von E. Behler, I–XXII, Paderborn-München-Wien, 1959 ff.

- Schmidt-Lilienberg, H.-G.: Die Lehre vom Tyrannenmord. Ein Kapitel aus der Rechtsphilosophie, Tübingen 1901.
- Schmitt, C.: Politische Romantik, München-Leipzig 1925.
- ders.: Politische Theologie. Vier Kapitel zur Lehre von der Souveränität, München-Leipzig 1934.
- Schöningh, Fr.: Was heißt heute konservativ?, Hochland 46 (1953/54), 20–34.
- Schoeps, H.-J.: Konservative Erneuerung. Ideen zur deutschen Politik, Stuttgart 1958.
- Scholz, R.: Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII. Ein Beitrag zur Geschichte der politischen Anschauungen des Mittelalters, Stuttgart 1903.
- Schotte, W.: Der neue Staat, Berlin 1932.
- Schubert, F.: Die deutschen Reichstage in der Staatslehre der frühen Neuzeit, Göttingen 1966.
- Schüddekopf, O.-E.: Die deutsche Innenpolitik im letzten Jahrhundert und der konservative Gedanke, Braunschweig 1951.
- ders.: Nationalbolschewismus in Deutschland, Frankfurt a. M.-Berlin-Wien 1972.
- Schumann, H.-G.: Edmund Burkes Anschauungen vom Gleichgewicht im Staat und Staatensystem, Meisenheim am Glan 1964.
- Schwarzkopf, D.: Was ist heute eigentlich konservativ?, Der Monat 14 (1961/2), H. 164, 45–50.
- Schwierskott, H.-J.: Arthur Moeller van den Bruck und der revolutionäre Nationalismus in der Weimarer Republik, Göttingen 1962.
- Seckendorff, L. v.: Christen-Staat, Leipzig 1716.
- Sée, H.: Les Idées Politiques en France au XVII^e siècle, Paris 1923.
- Seils, E.-A.: Die Staatslehre des Jesuiten Adam Contzen, Beichtvater vom Kurfürst Maximilian I. von Bayern, Lübeck-Hamburg 1968.
- Seyssel, Cl.: La Monarchie de France et deux autres fragments politiques. Textes établis et présentés par J. Poujol, Paris 1961.
- Shirley, F.: Richard Hooker and contemporary political Ideas, London 1949.
- Sigler, A. (ed.): The Conservative Tradition in American Thought. An Anthology, N. York 1970.
- Skinner, Q.: History and Ideology in the English Revolution, The Historical Journal 8 (1965), 151–78.
- Smith, P.: Disraelian Conservatism and Social Reform, London 1967.
- Smith, Th.: De republica Anglorum. The manner of Government or policie of the Realme of England, London 1583.
- Soder, J.: Die Idee der Völkergemeinschaft. Fr. de Vitoria und die philosophischen Grundlagen des Völkerrechts, Frankfurt a. M.-Berlin 1955.
- Solms-Lich, L.: Deutschland und die Repräsentativ-Verfassungen, Gießen 1838.
- Sonntag, W. v.: Die Staatsauffassung C. L. v. Hallers, ihre metaphysische Grundlegung und ihre politische Formung, Jena 1929.
- Sorrentino, A.: Storia dell'Antimachiavellismo Europeo, Napoli 1936.
- Soto, D.: De justitia et jure libri decem, s. I. [1608].
- Spaemann, R.: Der Ursprung der Soziologie aus dem Geist der Restauration. Studien über L. G. A. de Bonald, München 1959.
- Spangenberg, H.: Vom Lehnstaat zum Ständestaat. Ein Beitrag zur Entstehung der landständischen Verfassung, München 1912.
- Spanien und die Revolution, Leipzig 1821.
- Spann, O.: Der wahre Staat. Vorlesungen über Abbruch und Neubau der Gesellschaft, Leipzig 1923.
- Speier, H.: Militarism in the eighteenth century, Social Research 3 (1936), 304–36.
- Spengler, O.: Politische Schriften, München-Berlin 1934.
- Srbik, H.: Metternich. Der Staatsmann und der Mensch, I–II, München 1925.
- Stackelberg, J. v.: Tacitus in der Romania. Studien zur literarischen Rezeption des Tacitus in Italien und Frankreich, Tübingen 1960.

- Stadler, E.: Der Bolschewismus und seine Überwindung (= Revolutionäre Streitfragen, 1. Heft), Berlin 1918.
- ders.: Bolschewismus und Wirtschaftsleben (= Revolutionäre Streitfragen, 12. Heft), Berlin 1919.
- ders.: Die Nationalisierung der deutschen Revolution = Die Neue Front, hg. von Moeller van den Bruck – H. v. Gleichen – M. H. Boehm, Berlin 1922, 413–20.
- Stahl, Fr. J.: Das Monarchische Princip. Eine staatsrechtlich-politische Abhandlung, Heidelberg 1845.
- ders.: Die Revolution und die constitutionelle Monarchie, eine Reihe ineinandergreifender Abhandlungen, Berlin 1848.
- ders.: Was ist Revolution?, Berlin 1852.
- ders.: Der Protestantismus als politisches Princip, Berlin 1853.
- ders.: Siebzehn parlamentarische Reden und drei Vorträge, Berlin 1862.
- ders.: Die gegenwärtigen Parteien in Staat und Kirche, Berlin 1868.
- ders.: Die Philosophie des Rechts, I–II, 4. Aufl., Heidelberg 1870.
- Stankiewicz, W.: Politics and Religion in 17th Century France. A Study of Political Ideas from the Monarchomachs to Bayle, as reflected in the Toleration Controversy, Berkeley-Los Angeles 1960.
- Steffens, W.: Hardenberg und die ständische Opposition 1810/1811, Leipzig 1907.
- Steig, R.: Heinrich von Kleist's Berliner Kämpfe, Berlin-Stuttgart 1901.
- Stern, F.: Kulturpessimismus als politische Gefahr. Eine Analyse nationaler Ideologie in Deutschland, Bern-Stuttgart 1963.
- Stewart, R.: The Foundation of the Conservative Party 1830–1867, London-N. York 1978.
- Stillich, O.: Die politischen Parteien in Deutschland. I. Die Konservativen. Eine wissenschaftliche Darlegung ihrer Grundsätze und ihrer geschichtlichen Entwicklung, Leipzig 1908.
- Stolberg-Wernigerode, O. Graf zu: Die unentschiedene Generation. Deutschlands konservative Führungsschichten am Vorabend des ersten Weltkrieges, München-Wien 1968.
- Stourzh, G.: Staatsformenlehre und Fundamentalgesetze in England und Nordamerika im 17. und 18. Jh. Zur Genese des modernen Verfassungsbegriffes = R. Vierhaus (Hg.), Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze, Göttingen 1977, 294–328.
- Stricker, G.: Das politische Denken der Monarchomachen. Ein Beitrag zur Geschichte der politischen Idee im 16. Jh., Diss., Heidelberg 1967 (Masch.).
- Stürmberger, H.: Georg Erasmus Tschernembl. Religion, Libertät und Widerstand. Ein Beitrag zur Geschichte der Gegenreformation und des Landes ob der Enns, Linz 1953.
- Suarez, Fr.: Opera Omnia, ed. nova a D. M. André et al., I–XXVI, Paris 1856–1857.
- Sutcliffe, F.: Guez de Balzac et son temps. Littérature et politique, Paris 1959.
- Tawney, R.: The Rise of the Gentry 1558–1640, The Economic History Review 11 (1941), 1–38.
- Tezner, Fr.: Technik und Geist des ständisch-monarchischen Staatsrechts, Leipzig 1901.
- Thomas von Aquin: Summa theologiae, cura et studio sac. P. Caramello, I–III, Taurini-Romae 1952–1956.
- Thomson, G. Scott: Life in a noble Household, London 1937.
- Thuau, É.: Raison d'état et pensée politique à l'époque de Richelieu, Paris 1966.
- Tischler, P.: Ursprung und Träger der Staatsgewalt nach der Lehre des hl. Thomas und seiner Schule, M. Gladbach 1923.
- Tönnies, F.: Deutscher Adel im neunzehnten Jahrhundert, Die Neue Rundschau 23, 2 (1912), 1041–63.
- Toffanin, G.: Machiavelli e il „Tacitismo“. La „Politica storica“ al tempo della controriforma, Napoli 1972.
- Tommasini, O.: La vita e gli scritti di N. Machiavelli nella loro relazione col machiavellismo, I, Roma-Torino-Firenze 1883.

- Topitsch, E.: Aufgeklärter und unaufgeklärter Konservatismus, Criticón, H. 39, Januar-Februar 1977, 9–13.
- Tréca, G.: Les Doctrines et les Réformes de Droit Public en réaction contre l'absolutisme de Louis XIV dans l'entourage du Duc de Bourgogne, Paris 1909.
- Trevelyan, G. M.: English Social History. A Survey of Six Centuries, Chaucer to Queen Victoria, Harmondsworth 1967.
- Troeltsch, E.: Spektator-Briefe. Aufsätze über die deutsche Revolution und die Weltpolitik 1918–1922, hg. von H. Baron, Tübingen 1924.
- Tudesq, A.-J.: Les Grands Notables en France (1840–1849). Étude historique d'une psychologie sociale, I–II, Paris 1964.
- Turberville, A.: The House of Lords in the XVIIIth Century, Oxford 1927.
- Uhlhorn, Fr.: Reinhard Graf zu Solms, Herr zu Münzenberg 1491–1562, Marburg 1952.
- Ullman, H.: Die Rechte stirbt – Es lebe die Rechte!, Berlin 1929.
- ders.: Der konservative Mensch, Zeitwende 25 (1954), 85–93.
- Ullmann, W.: Principles of Government and Politics in the Middle Ages, London 1961.
- ders.: The Individual and Society in the Middle Ages, London 1967.
- ders.: The Medieval Idea of Law as represented by Lucas de Penna. A Study in Fourteenth-Century legal Scholarship, N. York-London 1969.
- Unger, Fr.: Geschichte der deutschen Landstände, I–II, Hannover 1844.
- Urkunden und Actenstücke zur Geschichte des Kurfürsten Friedrich Wilhelm von Brandenburg, I–XXIII, Berlin 1864–1930.
- Valjavec, Fr.: Der Josephinismus. Zur geistigen Entwicklung Österreichs im 18. und 19. Jh., Brunn-München-Wien 1944.
- ders.: Die Entstehung der politischen Strömungen in Deutschland 1770–1815, München 1951.
- ders.: Die Entstehung des europäischen Konservatismus = H.-G. Schumann (Hg.), Konservatismus, Köln 1974, 138–55.
- Vetter, Kl.: Kurmärkischer Adel und preussische Reformen, Weimar 1979.
- Viereck, P.: Conservatism Revisited. The Revolt against Revolt 1815–1949, N. York-London 1949.
- Vierhaus, R.: Von der altständischen zur Repräsentativverfassung. Zum Problem institutioneller und personeller Kontinuität im 18. und 19. Jh. = K. Bosl (Hg.), Der moderne Parlamentarismus und seine Grundlagen in der ständischen Repräsentation, Berlin 1977, 177–94.
- ders.: Konservativ-Konservatismus = Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland, hg. von O. Brunner – W. Conze – R. Koselleck, Bd. 3, Stuttgart 1982, 531–65.
- Villeneuve-Bargemont, A. de: Économie politique chrétienne, ou Recherches sur la nature et les causes du paupérisme, en France et en Europe et sur les moyens de le soulager et de le prévenir, I–III, Paris 1834.
- Vitoria, Fr. de: Comentarios a la Secunda Secundae de Santo Tomas. Edición preparada por V. Beltrán de Heredia, I–VI, Salamanca 1932–1952.
- ders.: Obras. Edición crítica del texto latino, versión española etc. por T. Urdanoz, O. P., Madrid 1960.
- Vogel, M.: Konservative Kritik an der bürgerlichen Revolution. A. W. Rehberg, Darmstadt-Neuwied 1972.
- Vollgraff, K.: Die Täuschungen des Repräsentativ-Systems, Marburg 1832.
- Wagener, H. (Hg.): Staats- und Gesellschaftslexikon, I–XXIII, Berlin 1859–1866.
- ders.: Erlebtes. Meine Memoiren aus der Zeit von 1848 bis 1866 und von 1873 bis jetzt, I–II, Berlin 1884.

- Walser, Fr.: Die spanischen Zentralbehörden und der Staatsrat Karls V. Grundlagen und Aufbau bis zum Tode Gattinaras, hg. von R. Wohlfeil, Göttingen 1959.
- Ward, W.: The English Land Tax in the Eighteenth Century, Oxford 1953.
- Weber, E.: Action Française. Royalism and Reaction in twentieth century France, Stanford 1962.
- Weill, G.: Les Théories sur le pouvoir royal en France pendant les guerres de religion, Paris 1891.
- Weinacht, P.-L.: Fünf Thesen zum Begriff der Staatsräson. Die Entdeckung der Staatsräson für die deutsche politische Theorie (1604) = R. Schnur (Hg.), Staatsräson, Berlin 1975, 65–71.
- Weis, E.: Ergebnisse eines Vergleichs der grundherrschaftlichen Strukturen Deutschlands und Frankreichs vom 13. bis zum Ausgang des 18. Jh.s, Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte 57 (1970), 1–14.
- ders.: Der französische Adel im 18. Jh. = R. Vierhaus (Hg.), Der Adel vor der Revolution. Zur sozialen und politischen Funktion des Adels im vorrevolutionären Europa, Göttingen 1971, 29–40.
- Westarp, K.: Konservative Politik im letzten Jahrzehnt des Kaiserreichs, I–II, Berlin 1935.
- Weston, C.: The Theory of Mixed Monarchy under Charles I and After, The English Historical Review 75 (1960), 426–43.
- Whibley, Ch.: Lord John Manners and his Friends, I–II, Edinburgh-London 1925.
- Wieruszowski, H.: Vom Imperium zum nationalen Königtum. Vergleichende Studien über die publizistischen Kämpfe Kaiser Friedrichs II. und König Philipps des Schönen mit der Kurie, München-Berlin 1933.
- Wilhelm, Th.: Die englische Verfassung und der vormärzliche deutsche Liberalismus. Eine Darstellung und Kritik des Verfassungsbildes der liberalen Führer, Stuttgart 1928.
- Williams, R.: Culture and Society 1780–1950, Harmondsworth 1963.
- Willoweit, D.: Rechtsgrundlagen der Territorialgewalt. Landesobrigkeit, Herrschaftsrechte und Territorium in der Rechtswissenschaft der Neuzeit, Köln-Wien 1975.
- Wilks, M.: The Problem of Sovereignty in the Late Middle Ages. The Papal Monarchy with Augustinus Triumphus and the Publicists, Cambridge 1963.
- Wilson, Fr.: A Theory of Conservatism, The American Political Science Review 35 (1941), 29–43.
- ders.: The Anatomy of Conservatives = W. Stankiewicz (ed.), Political Thought since World War II, Glencoe 1964, 337–55.
- Wohlfeil, R.: Adel und neues Heereswesen = H. Rössler (Hg.), Deutscher Adel, I (1430–1555), Darmstadt 1965, 203–33.
- Wolzenruff, K.: Staatsrecht und Naturrecht in der Lehre vom Widerstandsrecht des Volkes gegen rechtswidrige Ausübung der Staatsgewalt. Zugleich ein Beitrag zur Entwicklungsgeschichte des modernen Staatsgedankens, Breslau 1916.
- Wordsworth, W.: The Prose Works, ed. by A. Grosart. I: Political and Ethical, London 1876.
- Wormuth, Fr.: The Royal Prerogative 1603–1649, Ithaca 1939.
- Württembergische Landtagsakten, hg. von W. Ohr und E. Kober, Reihe I, Band I, Stuttgart 1913.
- Yardeni, M.: La conscience nationale en France pendant les Guerres de Religion (1559–1598), Paris-Louvain 1971.
- Zagorin, P.: A History of Political Thought in the English Revolution, London 1965.
- ders.: The Court and the Country. The Beginnings of the English Revolution, London 1969.
- Zehrer, H.: Die Etappe Brüning, Die Tat 22 (1930/31), 161–71.
- ders.: Zusammenbruch der bürgerlichen Parteien, a. a. O., 401–33.
- ders.: Deutschlands neue Einkreisung, a. a. O., 753–66.

- ders.: Rechts oder links?, Die Tat 23 (1931/32), 505–59.
- ders.: Heute wieder zukunftssträchtig, Der Monat 14 (1961/62), H. 166, 30–2.
- Ziegler, H.: Autoritärer oder totaler Staat, Tübingen 1932.

INDEX NOMINUM

Kursive Seitenzahlen bedeuten, daß das Stichwort in einer Fußnote steht.

- Acton 31, 31, 34
d'Addio 128, 130
Adhémar 388 f., 392, 433
Albertini 74, 101, 124, 133, 146, 155
Allen, C. 198
Allen, J. 107, 109, 185, 188, 189, 190, 191
Ammirato 142
Ancillon 236, 240
Anderson 321
Antonius de Butrio 70
d'Antraigues 237 f. 244
Aris 273, 383
Aristoteles 68, 70, 71, 71, 78, 79, 96, 98, 127, 133, 137, 141, 164, 166, 221, 260, 264, 269, 273, 282, 403
Armin 481
Arnold 129
Aron 59
Aston 84
Atger 130
Auerbach 52, 53
Augustin 68, 131, 136, 274
Aulard 236, 238, 244, 368
Aylmer, G. 82
Aylmer, J. 185
Baader 37, 169, 214, 217, 223, 266, 277, 278, 278, 279, 279, 280, 285, 323, 324, 330, 334, 335, 336, 358, 360, 361, 363, 364, 366, 437
Back 97, 99, 115, 130, 133, 134, 154, 167
Bär 126
Bailey 97, 171
Baldensperger 238, 240, 314, 349, 378
Balzac 378, 379, 392
Barker 31, 454
Barner 139
Barruel 224, 238, 252, 330, 349
Barth 238, 329
Barzun 87, 163
Bastid 317
Bauer 28
Baumer 182, 183, 184, 185
Baumgartner 105, 107, 132, 135, 138
Bautain 333
Behnen 296
Beik 122, 237, 238, 244, 252, 255, 281, 330
Bekk 331
Bellarmine 100
Belluga 96
v. Below 116, 385, 500
Benoist 139, 140
Bentham 58, 396, 486
v. Berg 321, 408
Beyer 491, 496, 499 f.
Beza 109, 134, 135, 137, 159, 171, 314
Bickart 95, 98, 133, 304
Bindewald 295
Birtsch 121, 304
Bismarck 209, 246, 251, 253, 282, 413, 415, 440
Bitton 87, 164, 166, 180
Blackstone 193, 194 f., 197 ff., 203, 206
Blake 195, 399, 400, 435, 437
Blatschford 52
Blet 86
Bluche 89, 180
Bodin 73 f., 76, 97, 186, 272
Böckenförde 319, 426
Boehm 485 f., 487
Böttiger 252
Bolingbroke 195 f., 202 f., 204, 238, 397
Bonald 123, 186, 211, 215 f., 217 f., 220, 224, 226 f., 228, 239, 241, 255, 261-3, 264 f., 266, 268, 272, 277, 278, 279, 279, 280, 281, 282, 284, 297, 303, 308 f., 316, 317, 323, 325, 330, 333, 335, 336, 336, 337 f., 340, 341, 348, 349, 350, 353 f., 354, 363, 364, 365, 368 f., 375 f., 383, 389, 391
Bonnetty 333
Bonney 84
Booms 412, 415
Bosl 111
Bossuet 97 f., 353
Boswell 196
Botero 142, 144
Botzenhart 315
Boucher 135
Boulainvilliers 87, 98, 130, 134, 135, 159, 161, 163, 164, 166, 167, 169, 170, 171, 172, 173, 178, 213, 237
Bowe 129, 135
Bowen 443, 494, 495

- Bracton 71, 199
Bradlaugh 31
Brandes 123, 233, 283, 297, 303, 315, 337, 340, 341, 342, 372, 377, 384, 401
Braune 317
Brewer 204, 205
Breysig 105, 120, 133, 163
Brinckmann 280, 291, 325, 349, 382, 383
Brinton 31, 291, 395, 396, 398
Brissaud 133, 135
Brodrick 179
Brown 163, 170, 173
Brückner 88, 149
Brunner 68, 69, 72, 88, 113, 114, 116, 121, 277
Bruno 211
Brutus 91, 109, 130, 132, 133, 134, 135, 137, 162, 170, 172, 174
Bryant 423
Buat-Nançay 180
Buchanan 104, 109, 128, 134, 135, 169, 186
Buchda 120
Bülow-Cummerow 402 f., 405
Büsch 85
Burke 19, 150, 153, 193 f., 197, 199, 201, 203, 205, 205, 206, 218, 219, 221, 223, 234 f., 236, 236 f., 238, 250 f., 252, 260, 262, 263 f., 266, 269-71, 272, 277, 281, 282, 290, 292, 315, 317, 328, 329, 331 f., 333, 336, 339, 340, 341, 346, 348, 349, 354, 377, 394
Butler 48
Cadart 117, 121, 123
Callego 396
Campe 115, 116, 117, 213, 247
Canning 399
Caprariis 93, 101, 109, 143, 146, 157, 158, 159
Carcassone 98, 99, 122, 125, 133, 160, 163, 180, 314
Carlyle, A. 71, 74, 111
Carlyle, R.-Carlyle, A. 67, 71, 131, 157
Carlyle, Th. 419, 448-54, 455, 457 f., 459, 460, 482, 501
Carré 89, 180, 304
Carro 65, 66, 127, 147
Carsten 111, 133
Cartesius 211
Casey 43
Cazalés 244
Cecile 13, 420 f.
Charles I. 188, 397
Chateaubriand 37, 244, 256, 301 f., 317, 348, 354, 381, 381, 384, 463
Cherel 138, 139, 141
Chlumecky 109
Chrimes 182, 183, 185
Christern 316
Church 75, 97, 125, 138, 142, 145, 146, 154, 155, 158, 175
Churchill 436
Clarke 38, 42, 44, 48, 49
Clément 140
Cobban 205, 292
Coke 150 f., 157, 167, 179, 188, 198, 206, 219, 332
Cole 499
Coleridge 193, 206, 271, 272, 278, 291, 302, 309, 334, 358, 360, 362, 364, 365, 370, 372, 380, 394, 395 f., 397, 419, 448, 449
Comte 460, 463
Condillac 376
Condorcet 354
Congar 157
Contzen 92, 140
Coote 35
Coquille 93 f., 134, 135, 147, 155 f., 157, 159, 170, 171, 172, 173, 174, 175, 195, 210
Cornford 400
Cortés 229, 233, 240, 241, 251, 257 f., 266, 278, 278 f., 300, 329, 330, 337, 345 f., 347
Costello 131, 135
Cottu 258 f., 303, 317
Cowling 40, 436
Crick 52, 53
Cromwell, O. 314
Cromwell, Th. 145, 186
Darré 481, 499
Davis 203
Dawson 61
Dedieu 314
De Lolme 244, 315
Demeter 85
Dennert 130, 133
Dickens 145, 183, 186
Dickinson 195, 200, 201, 202, 205, 206
Diederichs 492
Digby 398
Disraeli 396 f., 399, 400, 422, 435, 436
Dobersinsy 98
Dock 213, 270
Dodge 304

Donnadieu 331
 Doolin 75, 94, 97, 98, 130, 133, 171, 172, 174
 Dostojewski 140
 Du Bos 161
 Du Haillan 93
 Du Moulin 157, 158
 Duroselle 432, 433, 434

 Edelstein 86
 Égret 13, 89, 108, 122, 133, 161, 169
 Eliot 61
 Elm 36
 Elton 184, 185, 186
 Engels 501
 d'Épinac 125, 154
 Eppler 61
 Epstein, Kl. 13
 Epstein, L. 46, 48, 49

 Fawtier 121
 Feiling 39, 49
 Fénelon 84, 94, 96, 98, 101 f., 124, 135 f., 139, 144, 147 f., 147, 163, 165, 170, 170, 172, 173, 175, 177, 178, 178, 180, 195, 210, 237
 Ferdinand II. (Kaiser) 92
 Ferrand 237
 Ferraz 333, 376
 Feuchtwanger 400
 Fichte 290, 324, 325, 326, 383, 384
 Field 52
 Figgis 99, 109, 130, 169
 Filmer 200
 v. Finckenstein 131, 295
 Fine 52
 Flammermont 95, 98, 125, 126, 133, 153, 155, 160, 166, 168, 174, 181
 Fontane 322
 Ford 83, 89, 161
 Forsett 189
 Forsthoef 60, 490
 Fortescue 182
 Fouque d'Arles 389, 392
 Franco 506
 Franz I. (König von Frankreich) 86, 216
 Franzel 57
 Frauendorfer 499
 Freud 477
 Freund, J. 144
 Freund, M. 476
 Freyberg 123
 v. Freytag-Loringhofen 430

Fried 483
 Friedrich 38, 39, 60, 66
 Friedrich Wilhelm I. 212
 Friedrich Wilhelm IV. 257, 409
 Fugger 367
 Funke 311
 Fustel de Coulanges 460

 Gallouédec-Genuys 84, 94, 102, 172
 Gamble 43, 45
 Gentillet 138, 140, 149, 174
 Gentz 37, 207, 247, 251, 252, 270, 280, 281 f., 286, 288 f., 291, 294, 309, 316, 317, 318, 325, 332, 334, 349, 377, 379, 382, 383, 384
 George III. 203, 234
 George 183
 Gerhard 82, 112, 119, 120
 Gerlach E. L. v. 55, 213, 215, 222, 225, 242 f., 253 f., 262, 276 f., 277, 279, 281, 282, 283, 285, 286, 289, 294, 295, 296, 305 f., 308, 312, 313, 320, 321, 326, 327, 329, 348, 352, 359, 360, 379, 403, 404, 408, 409, 412, 415, 416, 438, 441
 Gerlach, Fr. v. 255, 408
 Gerlach, L. v. 213, 223, 233, 242 f., 246, 251, 253 f., 278, 284, 305, 308, 312, 320, 361, 365, 370, 408, 409, 438
 Gerlach, W. v. 222
 Gerstenberger 12, 489
 Gerstenmaier 38
 Gierke 65, 66, 70, 71, 131, 308
 Gilmore 72, 75, 157
 v. Gleichen 485, 491
 Godechot 232, 237, 238, 249, 251
 Göhring 84, 98, 108, 161
 Görres 169, 212, 283, 292–4, 311, 318, 344 f.
 Goetting 363, 437, 438, 441
 Goldwater 51
 Gollwitzer 321, 413, 415, 416
 Gooch 184, 188, 191
 Goodwin 88
 Gough 187, 188, 197
 Grandmaison 432
 Grassby 180
 Grebing 37
 Green 31
 Greenleaf 49, 422
 Greiffenhagen 12, 18
 Griffiths 119, 126, 153, 155
 Grotius 211, 304
 Gruder 88

Guise 132
 Gurian 279, 460, 462, 465
 Gustav Adolf III. 212
 Guyon 392

 Habakkuk 186, 192, 193
 Hahn 406, 440, 441, 442, 444, 446
 Hailsham 35, 49
 Hale 144, 151, 152, 157, 219
 Haller 37, 212, 220, 221, 225, 230–2, 233, 239, 240, 242, 252 f., 262, 264, 267, 272, 276, 284, 286, 288, 309, 312, 329, 347, 354, 355, 370
 Hamilton 91, 129, 147
 Hardenberg 117, 219, 294, 308
 Hartung 120
 Hasenclever 61
 Haß 86, 114, 116, 117, 120, 158
 Hayden 82, 162
 Hayek 34
 Hearnshaw 422
 Heer 57
 Heffter 413, 446
 Hegel 324, 324 f., 325 f., 502
 Heinrich III. (König von Frankreich) 74
 Heinrich IV. (König von Frankreich) 389
 Heinrich 82, 86, 120
 Heinrichs 87
 Helbig 120, 121
 Heller 496, 498
 Helvétius 375
 Herberger 368, 423, 441, 442, 444
 Herde 111
 Herder 287
 Hermens 498 f.
 Hermes 331
 Hertling 494
 Hexter 87, 189
 Hilger 205, 235, 271, 332, 336
 Hill 151
 Hinrichs 92
 Hintze, H. 155
 Hintze, O. 83, 118, 121, 182
 Hitze 494
 Hobbes 75, 113, 129, 144, 152, 161, 168, 235
 Hobsbawm 21
 Höffner 180
 Hölzle 160
 Hofmann 113, 117
 Holmes 195
 de l'Hommeau 74

Hooker 100, 127, 129, 133, 135, 148, 150, 153, 165, 167, 168, 183, 184, 201, 260
 Hotman 135, 145, 147, 153, 157, 158, 159, 172, 173, 174
 Huber, E. 426
 Huber, V.-A. 444–6
 Hugenberg 490, 491
 Huntington 13

 James I. 188, 189, 200
 James II. 186, 200, 397
 Jarcke 211, 212, 214, 220, 221, 222, 222, 223, 224, 225, 239, 249, 252, 256 f., 265, 266, 268, 272, 283, 284, 285, 289, 298, 301, 302, 310, 311, 319, 333, 338, 341, 351 f., 359, 387
 Jászi 96, 104, 186
 Jauly 138
 Jensen 328, 346
 Joachimsen 271
 Johnson 196
 Joly 94, 133, 135, 144, 179
 Jonas 431
 Jordan 249, 403, 404, 437
 Joseph II. (Kaiser) 212, 304
 Judson 185, 187, 189, 191, 192
 Jünger 485
 Jung 487–9
 Jurieu 304

 Kaltenbrunner 22, 34, 37, 38
 Kant 290, 325, 332, 333
 Karl der Große 159
 Katharina II. (Kaiserin von Rußland) 212
 Kaufmann 12
 Keir 203
 Kelley 157
 Kenyon 189, 190, 192
 Kern 65, 67, 68, 71, 103
 Ketteler 443, 494
 Kirk 33, 50, 51, 53, 53
 Kleinhapfl 128
 Klemperer 470, 477
 Klett 58
 Kliger 160, 191
 Kluckhohn 385
 Kluxen 195
 Knoll, A. 179
 Knoll, J. 489
 Knowles 186
 Köhle 120
 Koenigsberger 121

Kohn 288
 Kondylis 17, 18, 24, 79, 141, 158, 248, 307,
 347, 350, 351, 374, 415
 Koselleck 307
 Koser 133, 165
 Kossmann 75, 97
 Kotowitsch 101, 130, 133, 135, 146
 Kramnick 204, 206
 Kraus 360
 Kretzer 109
 Kroetz 61
 Krollmann 88
 Kuenelt-Leddihn 38
 Labatut 162
 Labitte 74, 105, 106, 135, 142
 Lacour-Gayet 101
 Lagarde 247, 473, 475 f., 478, 481
 La Mennais 224, 225, 277, 279, 298
 Lancizolle 272
 Landmann 94, 105, 109
 Landshut 41
 Lanseros 135
 Larkin 201
 Lassaingne 86
 Lassalle 445
 La Tour du Pin 460
 Laurence 328
 Lares 132, 135, 174
 Le Bret 74, 83
 Lecky 31, 31
 Lee 88, 176
 Lefebvre 13
 Lehmberg 184
 Lehnert 86
 Leibniz 347
 Le Laboureur 163
 Lemaire 74, 94, 97, 106, 109, 124, 133
 Lemberg 287
 Lenin 59
 Lenz 318, 361, 370, 500
 Leo 243, 249 f., 280, 321, 327, 355, 410, 437
 Leroy 378
 Lewis, E. 65, 66, 67, 72, 157
 Lewis, G. 53
 Lewis, J. 96, 104, 186
 Lhomme 387
 L'Hôpital 74, 145
 Lieberich 82, 87, 162
 Lindeck 130
 Link 99, 174, 304
 Lippincott 31, 449, 454

Lissarague 132, 135
 Lloyd George 421, 422
 Locke, J. 192, 201, 206, 304, 304
 Locke, R. 392, 434
 Locmaria 390 f., 392
 Löwenthal 118
 Lombard 161
 Londonderry 435
 Lorenzi 335, 376
 Louis XI. 93, 159
 Louis XIV. 165, 212, 213, 214, 216, 217, 237,
 463
 Louis XVI. 216, 238
 Louis-Napoléon 251, 392
 Lousse 111, 119
 Loyseau 163
 Lukács 502
 Lutz 139, 145
 Lyon 121
 Machiavelli 73, 137 ff., 211, 277, 282, 322,
 478
 Maier 111, 149, 154, 169
 Maine 31, 31
 de Maistre 216, 218 f., 220, 221, 228–30, 241,
 262, 274, 277, 279, 308, 317, 325, 333, 335,
 336, 337, 341 f., 346 f., 349, 350, 354, 378,
 389, 391
 Malesherbes 169
 Mallet du Pan 122, 236, 244, 252, 297, 301,
 315, 341, 348, 365, 377
 Mallock 33
 Mandrou 107, 161, 162
 Mandt 74
 Manners 397 f., 435
 Mannheim 12, 14, 500
 Maran 158
 Marcks 82, 88, 162
 Mariana 91, 93, 104, 130, 163, 174, 175, 178
 Marie-Antoinette 238
 Markham 282
 Marsilius (Defensor Pacis) 70
 Martin 242, 306
 Martiny 401
 v. Marwitz 219, 221, 239, 265, 266, 267,
 272, 283, 284, 288, 291, 294, 295, 299, 302,
 354, 356, 357, 361, 367, 384, 406, 408, 437
 Marx 202, 257, 501 f.
 Mary (Königin von England) 186
 Maschke 60, 490
 Massillon 99
 Mattei 139, 140, 141, 142, 144

Maurras 460–9, 497, 498
 Maury 232, 236
 Maximilian I. von Bayern 92
 Mayer 430
 Mazarin 138
 McClelland 315, 319
 McDowell 399, 422
 McIlwain 67, 71, 96, 105, 185, 188, 191
 Meinecke 240, 242, 280, 292, 408
 Meisner 244, 394
 Melliet 141
 Mellon 215, 279, 297, 349
 de Melun 434
 Mercier 109, 304
 Merk 71
 Merkatz 22, 44, 57
 Mesnard 101, 105, 109, 128, 147
 Metternich 54, 241, 251, 318, 382
 Meyer, Fr. 34, 50
 Meyer, G. 192
 Mill 31
 Mills 53
 Mingay 192, 195, 196
 Mirabeau 143, 163, 167, 170, 171, 176 f.,
 177, 178, 178 f., 180
 Mitrofanov 155, 165, 304
 Moellendorf 495
 Moeller van den Bruck 59, 476, 478, 480–3,
 484, 486, 487, 496
 Möser 103, 155, 221, 239, 240, 265, 268 f.,
 284, 302, 335, 338, 359, 361, 362, 367, 369,
 370, 375, 376, 377, 377, 383
 Mohl 310
 Mohler 58–60, 478
 Molina 91, 127, 128, 135, 147
 Moltke 402
 Mommsen 242, 411, 412, 431
 Montesquieu 98, 218, 244, 304, 352, 353
 Montlosier 213, 221, 244, 252, 255, 279,
 297 f., 301, 305, 317, 432
 Moreau 94, 97, 98, 100, 105, 125, 133, 135,
 140, 145, 167, 169, 170, 172, 174, 177
 de Morgues 139
 Morris 184
 Mortari 157, 158
 Moser 110, 123, 142, 158, 159
 Moss 184, 186, 188, 189
 Moulinié 221, 265, 266, 279, 280, 303
 Mousnier 74, 84, 87, 104, 107, 165, 166
 Müller, A. 37, 207, 211, 214, 220, 222,
 223 f., 227 f., 247, 251, 261, 263, 266, 273,
 275, 276, 278, 280, 283, 284, 285, 290, 291,

316, 317, 325, 333 f., 335, 338, 349, 354,
 356, 357 f., 357, 359, 360, 361, 362, 368,
 369, 370, 371, 373, 377, 379, 382, 383, 384,
 437
 Müller, Chr. 117, 118, 234
 Müller-Armack 492 f.
 Müsebeck 310
 Munz 184
 Muralt 490
 Myers 121
 Näf 112, 120, 121, 130
 Namier 204
 Napoleon 252, 283, 295, 317, 347, 391
 Naumann 427, 446
 Nawroth 38
 Neale 186
 Neumann 412, 437, 490
 Niekisch 480
 Nietzsche 473, 477, 480
 Nipperdey 429
 Nisbet 42
 Nolte 462, 468
 Novalis 169, 240, 288, 349, 381, 384
 Nürnberger 109
 Oakeshott 56
 Oakley 97
 Obrecht 169
 Oechslein 251, 354
 Oestreich 82, 110, 112, 120, 130
 Ogg 193, 195
 Oldendorp 154
 Osgood 393, 465, 468
 O'Sullivan, 34, 39, 53, 61, 420
 Pain 193
 Palmer 13, 88, 181, 304
 Palmerston 399
 v. Papen 489
 Pareto 478
 Parker 191, 191
 Parsons 184
 Paulsen 444, 445
 Peckham 52
 Peel 320, 399, 422, 435
 Peller 140
 Perthes 382
 Petersohn 97, 120, 167
 Petit 82
 Philipp der Schöne 70
 Picot 82, 100, 105, 135, 163, 166

Pinto-Duschinski 419
 Pitt (der Jüngere) 397
 Platon 78, 166, 380, 454, 498
 Plumb 192, 193
 Pocock 157, 159, 160, 188, 189, 197, 219
 Poetzsch 385
 Pole 140, 145
 Polin 139
 Pontano 145
 Porschnew 107
 Posse 117
 Post 118, 121
 Pot 135
 Powicke 183, 185
 Poynt 184
 de Priézac 164
 Puaux 101
 Pütter 99, 148 f., 155, 174
 Puhle 414
 Pym 189 f.

Quabbe 470, 491 f.
 Quaritsch 69, 71, 74, 115

Raab 138
 Rachfahl 114, 116
 Radowitz 211, 212, 214, 220, 221, 222, 223,
 224, 225, 226, 231, 233, 240 f., 249, 256,
 279, 280, 282, 284, 285, 286, 288, 295, 299,
 303, 305, 310, 312, 319, 324, 326, 330, 356,
 358, 366, 367, 369, 372, 440
 Ramlow 295
 Ranger 21
 Ranke 37, 271
 Raphael 211
 Rathenau 483, 495
 Raumer 84
 Rauschnig 491, 499
 Rehberg 207, 214, 233, 266, 284, 285, 288,
 290, 297, 302, 315, 332, 354, 360, 361, 363,
 369, 372, 377, 379 f., 383, 384, 401, 402
 Reinhard 89, 180
 Rémond 388, 392, 460, 465, 467, 469
 Renan 418, 460
 Resnick 249, 251
 Retz 101
 Rexius 235, 351
 Ribadaneyra 92, 137, 138, 140, 142, 143,
 167, 170, 171, 179
 Ribhegge 12
 Richard 180
 Richelieu 97, 138, 149, 158, 213, 237

Richthofen 442, 444, 446
 Riemer 237, 238
 Ringseis 213
 Ritter, G. 289, 295, 308, 315, 415, 416
 Ritter, G. A. 187, 189
 Rivarol 232 f., 238, 264, 290, 297, 377
 Roberts 435
 Rochau 247, 409
 Roche 460
 Rodbertus 446
 Roe 449, 454, 457, 458
 Röder 429
 Röpke 32, 33 f., 34, 41, 493, 506
 Rößler 162
 Rogister 160
 Rohan 161
 Rohden 14, 18, 230, 351, 381, 383
 Romein 13, 57
 Rommen 128, 135
 Roscher 178
 Rosenberg 85, 405
 Rossi 79
 Rossiter 36, 39, 50, 53 f., 56
 Rothschild 367, 392
 Rousseau 113, 218, 227, 304, 315, 463, 489
 Rowlands 207
 Ruskin 454–9, 460
 Russell 34

Saile 246, 253, 439, 440
 Saint-Simon, Cl.-H. 298
 Saint-Simon, L. 84, 87, 156, 163, 172
 Salazar 506
 Salisbury 31, 400, 418–20
 Salmon 86, 101, 162, 183, 186
 Salomon 383
 Sanchez Agesta 91, 96, 98, 127
 Savigny 351
 Savorgnan 417
 Schäffle 321, 407
 Scheel 223, 262, 280, 300, 319, 437, 438
 Schell 219, 260
 Schelling 169, 324, 325, 326
 Schenk zu Schweinsberg 402
 Scheuner 113, 143, 311
 Schlegel 169, 211, 216, 220, 223, 223, 226,
 228, 239, 240, 241, 249, 265, 267, 274, 278,
 279, 280, 281, 281, 282, 288, 298, 305, 306,
 309, 318, 324, 329, 343 f., 347, 353, 354,
 356, 362, 372, 380, 382, 383, 383
 Schleiermacher 326
 Schmidt-Lilienberg 104

Schmitt 230, 255, 351, 383, 490
 Schöningh 38
 Schoeps 16, 19, 55 f., 59
 Scholl 151
 Scholz 70
 Schotte 489
 Schubert 105, 114
 Schüddekopf 243, 441, 484
 Schultze-Delitzsch 440, 445
 Schumann 205, 234
 Schwarzkopf 33
 Schwerin 98
 Schwienskott 470, 476, 477, 479, 480
 Scott 398
 Seckendorff 100, 101, 140, 170, 177, 178, 179 f.
 Sée 83, 84, 94, 101, 105
 Seils 92
 Seyssel 93, 97, 125, 144, 167, 169, 177
 Shakespeare 502
 Shirley 184
 Sidney 304
 Sigler 52
 Silhon 161
 Simmel 502
 Sixtus V. (Papst) 132
 Skinner 197
 Smith, A. 263, 317, 357, 360
 Smith, P. 419, 420, 437
 Smith, Th. 97, 128, 134, 156, 165, 185, 191
 Smith, W. 332
 Soder 129
 Solms 162, 175, 179
 Solms-Lich 310, 311
 v. Sonntag 240, 268
 Sophokles 501
 Sorrentino 139, 140
 Soto 91, 104, 132, 147, 179
 Spaemann 266, 333, 378
 Span 328
 Spangenberg 103, 173, 175
 Spann 497 f.
 Speier 85, 166
 Spengler 487
 Spinoza 113, 211
 Srbik 241, 382
 Stackelberg 139
 Stadtler 473, 484
 Staël 316
 Stahl 205, 211 f., 224, 233, 236, 240, 241,
 245 f., 268, 275 f., 276, 280, 280, 281, 282,
 286, 289, 300, 312 f., 320 f., 325 f., 330,
 337, 355, 379, 406, 410, 500 f.

Stankiewicz 101, 143
 Steffens 310, 361
 Steig 315, 361
 Stein, Fr. K. Freiherr v. 315, 406
 Stein, L. v. 489
 Stephen 31, 31
 Stern 479, 480, 481, 483, 484
 Stewart 389, 399
 St. German 183, 184
 Stillich 414, 423, 441, 442
 Stoecker 446
 Stolberg 295
 Stolberg-Wernigerode 416, 417
 Stourzh 197
 Strasser 480, 484
 Stricker 104
 Sturmberger 86, 88, 104, 105, 107, 135, 143,
 156, 158, 162, 165, 167
 Suarez 66, 68, 97, 100, 109, 127, 128, 129,
 131, 132, 134, 137, 140, 147
 Sumner 52
 Sutcliffe 164

Tacitus 199
 Taine 418, 460
 Tawney 186
 Tezner 114, 116, 120
 v. Thadden 403
 v. Thadden-Trieglaff 242
 Thaer 360
 Thiers 214
 Thomas 65, 66, 68, 72, 91, 104, 127, 131,
 137, 143, 166, 182, 184
 Thomson 88
 Thuau 97, 100, 124, 138, 139, 140, 142, 144,
 146, 149, 158, 161, 163, 166, 168
 Tieck 325, 384
 Tischleder 127
 Tizian 455
 Tocqueville 25, 31, 34, 37, 213, 215, 327,
 418, 487
 Tönnies 417, 428
 Toffanin 139
 Tommasi 140
 Tommasini 139
 Topitsch 38
 Tréca 101, 172
 Trevelyan 186, 193, 196, 435
 Troeltsch 483, 484
 Tschernembl 103 f., 107, 156, 167
 Tudesq 317, 388, 389, 392, 433
 Turberville 204

Uhlhorn 82, 99, 162, 179
 Ullmann, H. 57, 470, 491
 Ullmann, W. 65, 70, 71, 111
 Unger 103, 114, 116, 120, 123

Valjavec 12, 13, 14, 247, 248, 304, 319, 376
 de Valois 163
 Vattel 281
 Vetter 131, 310
 Viereck 50, 51, 54
 Vierhaus 28, 311
 Villeneuve 317, 363, 364, 364 f., 371 f., 433 f.
 Vitoria 109, 127, 128, 129, 147, 179
 Vogel 214, 316, 333, 360, 363, 377, 383, 402
 Vollgraff 113, 116, 122, 272, 299, 310
 Voltaire 314

Wagener 55, 59, 253, 308, 358, 370, 406,
 439, 440, 443, 445
 Walpole 203 f.
 Walser 88
 Ward 193
 Weber, E. 463, 465, 467, 468, 497

Weber, M. 27, 428
 Weill 74, 104, 105, 107, 109, 174
 Weinacht 144
 Weis 89, 180, 437
 Wellington 435
 Westarp 416, 429
 Weston 189, 199
 Whibley 397, 398
 Wieruszowski 70, 86
 Wilhelm 319
 Wilks 70
 Williams 449, 454
 Willoweit 75
 Wilson 19, 52, 54
 Wohlfeil 85
 Wolfgang Wilhelm (Pfalzgraf) 167
 Wolzendorff 103
 Wordsworth 291 f., 309, 395
 Wormuth 188, 189, 190, 191

Yardeni 107, 143, 148, 174

Zagorin 189
 Zehrer 57, 473, 483, 490 f.
 Ziegler 489–490

Absolutismus

- Kontinuität von A. und Revolution 25, 212 ff.
- und neuzeitliche Souveränität 74
- seine Kompromisse mit der *societas civilis* 83 f., 90, 112
- traditioneller und absolutistischer Gebrauch von „absolut“ 96–8, 189, 228 f.
- seine Distanzierung vom Machiavellismus 146
- seine Vereinheitlichungstendenz 155, 157 f.
- seine Legitimation durch Geschichte 159
- materielle Gründe seines Scheiterns in England 186
- konservativer Gegensatz zu ihm auch nach 1789 208, 238 ff., 242, 304, 388, 395

Abstraktes – Konkretes

- erkenntnistheoretische Schwächen und polemischer Sinn ihrer Gegenüberstellung 19 f., 55, 145 f., 339

Adel (vgl. Bürgertum, Bürokratie)

- als geschichtlicher Träger des Konservatismus 27, 64
- seine zweideutige Beziehung zum entstehenden Staat 81 ff., 246
- sein Antagonismus mit der Geistlichkeit 85 ff., 92 f., 183 f., 378
- und moderne Bildung 87 f., 407, 417
- und soziale Mobilität 88 f., 162
- seine innere Spaltung 89 f.
- seine Versöhnung mit dem Absolutismus angesichts der Gefahr von unten 101 f.
- und „Konsevation“ 125 f., 262, 406
- seine Feindschaft gegen den Machiavellismus 137 f.
- seine frühe Sehnsucht nach dem Mittelalter 161, 162
- seine Krise im 16. Jh. 162
- seine frühen ideologischen Kämpfe 162 ff.
- seine wichtigsten sozialen Funktionen 166, 262, 354
- und die Folgen der neuen Nobilitierungen 170
- sein Kampf gegen den Ausbau des Staates 172 ff.
- Entartung des Hofadels 176 ff.

- und kapitalistische Geschäfte 180 f., 196, 302 f., 314, 319, 398, 405
- seine Entrechtung durch den Absolutismus 213, 216
- seine Einstellung zur Monarchie nach 1789 236
- seine Stimmung nach 1789 238
- seine wachsende Abhängigkeit vom Staat 247
- und Bürgertum im 19. Jh. 302 f., 311 f., 313, 398 f., 416
- sein Zusammenbruch in Frankreich nach 1830 387 ff.
- seine ideologische Annäherung ans „rechte“ Bürgertum 391 f., 416 f.
- seine Krise und seine Anpassungsversuche in Deutschland nach 1815 401 ff.
- seine Verwandlung in einen Teil der neuen Gesellschaft 411 f.
- sein Aussterben 417
- sein Zusammenschluß mit dem Bürgertum gegen den Sozialismus 417 f., 428 ff.
- und soziale Frage 444, 445
- bei Carlyle 452, 453
- und völkische Idee 476
- und Germanentum 481
- Ämterkäufllichkeit 83 f., 87, 170
- Aktivismus
 - kein Gegensatz zum Konservatismus 15, 64, 102, 248
 - als Ursache für die Plastizität konservativen Gedankengutes 109
 - als Widerstandsrecht und als Diktatur 208, 247 f.
- altgermanische Freiheit 160
- Arbeit
 - ihre neuzeitliche Aufwertung 78 f., 447
 - als Wesen des Menschen und als Fluch 371, 443
 - bei Carlyle 451 f.
 - bei Ruskin 457 f.
- Arbeitsteilung
 - ihre Folgen für das Wesen des Menschen 369 f.
- Atheismus (vgl. Deismus, Materialismus, Mensch)
 - als Trennung von Ethik und Politik 140 f.

- als Primat des Irdischen 140
- als Anspruch auf souveränes Machen des Rechts 322
- Vielfalt seiner Formen 323 f., 330
- gegen die menschliche Natur 332
- Aufklärung
- Gegensatz von A. und Konservatismus 11 ff., 63 f., 373, 378
- unbewußte Verwandtschaft von A. und Konservatismus 210, 226, 351
- und Revolution 328
- ihr antiintellektualistischer Charakter 374 f.
- Ausnahmezustand
- und neuer Politikbegriff bzw. Staatsräson 143 ff.
- seine konservative Herabsetzung 144, 256
- Beamte (vgl. Bürokratie)
- ihre traditionsfeindliche Einstellung 171
- als Träger des modernen Staates 283
- Begriff
- vs. Idee bei Müller und Coleridge 333 f.
- Begriffsgeschichte
- Nützlichkeit und Grenzen 27 f.
- Böses, s. Theodizee
- Bonapartismus (vgl. Diktatur) 212, 257, 306, 460
- Bürgertum (vgl. Adel, Bürokratie, Liberalismus, Nationalsozialismus)
- sein Übertritt zur Konservativen Partei in England 35, 399 f.
- Wandlung seiner sozialen Stellung und ambivalente Beziehung zum Staat 47 f., 423
- frühe Auseinandersetzung mit dem Adel 163
- und die neuzeitliche Wendung zum Diesseits 211, 212
- sein Werben um die Monarchie 307 f.
- als herrschende Schicht in der ökonomisch orientierten Gesellschaft 363
- sein Frontwechsel nach dem Aufstieg der Demokratie 419
- im Kaiserreich 425 ff.
- seine Radikalisierung in der Weimarer Zeit 469 ff.
- und Diktatur 471, 504 ff.
- und Korporatismus 495 f.
- Bürokratie (vgl. Beamte)
- vs. Adel 243, 255, 284, 306, 310, 392, 409, 441, 445

- vs. Bürgertum 33, 35, 46, 488, 489
- Christentum (vgl. Religion)
- seine liberal-individualistische Umdeutung 37 f.
- sein Gegensatz zur Moderne 57
- seine Ästhetisierung 448
- vs. Germanentum 481
- Dauer 153 f., 360, 479
- Deismus
- als verdeckter Atheismus 323
- seine konservative Ablehnung 328
- und Liberalismus 330
- Demokratie
- ihre Forderung nach materiellen Rechten 30
- als notwendige Folge des Liberalismus 31, 33 f., 61, 297 ff., 500
- als Gegenbegriff zum „Totalitarismus“ 50
- und horizontale Trennungen 282
- die Front aller Eigentümer gegen sie 300 ff., 417 ff.
- und Atheismus 330
- demokratische Bewegung im Kaiserreich 426
- im Sinne des kapitalistischen Parlamentarismus 452, 461 f.
- und Staat 462
- als Oligarchie 466
- Diktatur (vgl. Bonapartismus, Bürgertum)
- als Novum des gegenrevolutionären Konservatismus 26, 247 f.
- ihre Wurzeln in der Beziehung des Adels zum Staat 84
- als extremer Einsatz des Staates zugunsten des Adels 208, 248
- ihr Zusammenhang mit dem Konservatismus 248
- revolutionäre D. 252, 258
- kommissarischer Charakter konservativer D. 254 ff., 505 f.
- bei Maurras 464 f.
- und die Rechte 504 ff.
- Effizienz (vgl. Ökonomismus) 44 f., 59
- Eigentum (vgl. Gerechtigkeit)
- seine Unantastbarkeit 174, 222, 299, 307, 418, 421, 430, 434, 443
- und Familie 266, 359, 360
- seine Gefährdung durch die politische Gleichheit 297 ff.

- sein konservativer und sein kapitalistischer Begriff 359 ff., 403
- die Durchsetzung des kapitalistischen E.s und die Front aller Eigentümer 417 f.
- Elite 40, 418, 429 f., 447
- bei Carlyle 452, 453 f.
- bei Ruskin 459
- bei Maurras 465 f.
- bei Nietzsche und der Jugendbewegung 473
- bei der „konservativen Revolution“ 474, 492
- Ethik (vgl. *societas civilis*)
- ihre Einheit mit der traditionellen Politik 136 ff., 235, 282
- Eudämonismus (vgl. Materialismus)
- in der konsumierenden Massengesellschaft 33, 43
- und revolutionäre Wendung zum Diesseits 140, 267, 336, 355, 449
- liberaler E. 304, 371, 372, 482, 486, 492
- Familie bzw. Oikos
- als grundlegende Einheit der *societas* 127, 136, 264 f.
- als Typ traditioneller Herrschaft 165, 264 f., 266
- Faschismus 469
- und Korporatismus 498 f.
- zwischen rechter und totalitärer Diktatur 506
- Fehde 102
- Fortschrittsidee
- ihre Verbindung mit der modernen Souveränität 76, 352
- ihre konservative Widerlegung 342 ff., 354
- und „konservative Revolution“ 476, 478
- Freiheit bzw. Freiheiten (vgl. Gleichheit) 167, 222
- Gallikanismus 157, 279
- Geld (vgl. Hierarchie)
- als Symbol kapitalistischer Wirtschaftsform 178
- seine sittenverderbende Wirkung 178 f., 196, 366 f., 450, 461, 501 f.
- seine Durchsetzung im ganzen Spektrum der Wirtschaft 361
- seine Folgen für Arbeit und Produktion 367 f.

- „lebendiges G.“ bei Müller 368
- Gemeinwohl (vgl. Wohlfahrt)
- als Vorwand des Staates zur Nivellierung 214, 256, 272
- Gerechtigkeit (vgl. Gleichheit)
- als *iustitia distributiva* 68 f., 166 f., 221 f.
- und Hierarchie 166
- und Unantastbarkeit des Eigentums 174, 222
- Geschichte
- ihre Verwendung im Kampf zwischen Adel und Absolutismus 158 ff.
- als Bereich rein menschlicher Ansprüche 226
- ihre konservative Periodisierung 342 ff.
- ihre Verselbständigung 351 f.
- konservative Wissenschaft von der G. 352 f.
- Geschichtsphilosophie
- als konservative Antwort auf die Revolution 209, 342 ff.
- Gesellschaft (vgl. Staat)
- ihre Trennung vom Staat und die damit zusammenhängenden Trennungen 138 ff., 272, 356
- revolutionärer Gebrauch des Begriffes 275
- und die Eigengesetzlichkeit des Ökonomischen 356
- Gesetz (vgl. Recht, *lex*)
- als Anwendung des göttlichen Rechts 65 f., 132 f.
- seine Loslösung vom göttlichen Recht 73, 220
- seine Interpretation durch seinen souveränen Schöpfer 75 f., 80
- als Instrument zur Reform bzw. Revolution 76
- seine zwei Arten nach Fénelon 94
- Gesetz Gottes bei Hooker 167
- bei Bonald 218
- sein Gegensatz zum Recht 220 f.
- als toter Buchstabe 227, 285
- bindet nicht seinen Schöpfer 230
- nivellierende Wirkung der allgemeinen Gesetze 284 f.
- Gewaltenteilung
- und moderne Souveränität 72, 115
- Fiktion der G. in England 203 f.
- ihre konservative Ablehnung 232 f., 237, 309, 411 f.
- Gleichheit

- vs. Freiheit 39, 221 f., 285
- unbekannt im Recht der *societas civilis* 68
- als Folge moderner Souveränität 77, 161
- ihre frühe Ablehnung durch den Adel 163, 165, 166, 168
- vs. Gerechtigkeit 221 f.
- vor dem Gesetz 285, 293, 417
- formelle und materielle 297, 298 f.
- und Atheismus 323
- unerreichbar wegen des Sündenfalls 434
- unnatürlich 452, 462
- Gott (vgl. Atheismus, Deismus)
 - als Urheber des Rechts 65
 - als Urheber der *societas* 128, 136, 261 f.
 - Aufstand gegen ihn 224, 345
 - beliebige Interpretierbarkeit seines Willens 224 f.
 - sozialpolitische Gründe der Berufung auf ihn 322
 - als Garant einer hierarchischen Ordnung 327
 - und Natur 328 f., 346, 347, 378
 - sozialpolitische Implikationen der Gottesauffassung 329 f.
 - seine Vorsehung in der Geschichte 343, 344, 350
 - seine Herabsetzung in der Neuzeit 449
- Gottesgnadentum
 - im traditionellen Sinne 71 f., 100, 232, 239, 242, 245
 - im absolutistischen Sinne 99 f.
- Gruppe (vgl. Mensch)
 - ihre Priorität gegenüber dem Einzelnen 163 ff.
- Handel
 - frühe konservative Forderung nach seiner Einschränkung 179 f.
 - seine Bedeutung für England 196, 316, 317, 364
 - und Krieg 365
- Handwerk 370, 441, 442, 446, 457
- Heidentum
 - Folgen seiner neuzeitlichen Wiederentdeckung 211
- heroisches Lebensideal 453, 459, 475, 476, 480, 504
- Heterogenie der Zwecke 349 f.
- Hierarchie (vgl. Gott)
 - und natürliche Ungleichheit 39 f.
 - ihre Verteidigung durch den Adel 161, 163 f.

- als Grundlage des Gemeinwesens 166
- ihre Verwurzelung in der Seinsordnung 168
- ihre Zersetzung durch das Geld 178
- ihre Begründung durch die menschliche Soziabilität 335 f.
- Historische Schule 296, 351 f.
- Hof 84, 87, 175, 176
- Idee, s. Begriff
- Individualismus (vgl. Liberalismus)
 - sein alt- und sein sozialliberaler Sinn 30, 31
 - in der Massengesellschaft 32, 41, 51
 - christlich-personalistischer 38, 51
 - in der amerikanischen Tradition 52
 - seine Zweideutigkeit 54
 - als Folge der modernen Souveränität 77, 165, 214 f., 285
 - und Wirtschaftsliberalismus 43, 180 f.
 - das ihm entsprechende Sozialmodell 265, 306
 - seine konservative Ablehnung 266
 - bei der neuzeitlichen Vertragstheorie 266 f.
 - protestantischer 280
 - wirtschaftlicher 363
 - romantischer 383 f.
 - vs. Massengesellschaft 430, 431
 - seine Wurzellosigkeit 41, 482, 487, 492 f.
 - seine gemeinsame konservative und sozialistische Ablehnung 500 f.
- Industrie (vgl. Arbeitsteilung)
 - und Auflösung der *societas civilis* 27
 - ihr Wesensunterschied von der Landwirtschaft 360 f., 414
 - und Unterdrückung des Menschen 368 f.
 - Folgen ihres Übergewichts gegenüber der Landwirtschaft 387, 392, 440 f.
 - „gute“ und „schlechte“ 407
 - ihre Entfaltung im Kaiserreich 427, 428
 - konservative Pläne für ihre Feudalisierung 438
 - bei Carlyle und Ruskin 458
- Intellektuelle
 - „doctores“ im absolutistischen Staatsdienst 171
 - im Dienste des gegenrevolutionären Konservatismus 210, 379 ff.
 - als Menschentypen 340 f.
 - als Urheber der Revolution 348
 - ihr Bündnis mit dem Proletariat 365

- theoretische Formen ihrer Selbstaufwertungsbestrebung 380 ff., 448
- ihre Stellung in der kapitalistischen Gesellschaft 448 f., 460 f.
- und Elite 454, 455, 459
- und „konservative Revolution“ 469 f., 480, 484
- und Ästhetisierung der Kulturkritik 502
- Interessenpolitik 391, 399, 402 f., 405, 413
- Interventionsrecht 147, 281 f.
- Jacobinismus 31 f., 35, 106, 297 f., 348, 395, 421, 489
- Jugendbewegung 473
- Kabinettsystem 193, 201 f.
- Kapitalismus
 - und Staat 356 f.
 - Autonomie des Ökonomischen und soziale Folgen der Konkurrenz 362 f.
 - Krisenanfälligkeit kapitalistischer Ökonomie 363 ff.
- Kapitalismuskritik
 - bei den Legitimisten 393, 433
 - in England 395, 397 f.
 - in Deutschland 411, 414, 437
 - als Achse der zerstreut weiterlebenden konservativen Leitmotive 447
 - bei Carlyle 449 ff.
 - bei Ruskin 455 f.
 - bei Maurras 461 ff., 468
 - bei der „konservativen Revolution“ 474 f.
 - Gemeinsamkeiten von konservativer und sozialistischer K. 500, 501
- Katholizismus 280 f., 345
 - sozialer 434, 443, 446, 494, 499
 - und Maurras 463
- Kirche 51, 131 f., 137, 147, 225, 460, 499
 - und Staat 148, 183, 274, 279 f.
 - bei Coleridge und dem Young England 396 f.
 - und Caritas 432 ff.
- König (vgl. monarchisches Prinzip, Prärogative)
 - seine Bindung ans Recht 71, 93 ff., 134, 229, 238 ff.
 - seine zwei Gesichter 71
 - eher Richter als Gesetzgeber 72, 90 f., 93 ff., 134, 239
 - als souveräner Gesetzgeber 75
 - Gegenüberstellung zum Tyrannen 71, 96 f., 98, 174, 238

- vom „Volk“ gewählt 105, 130, 132, 135
- als Verkörperung des Rechts und des Gemeinwesens 134, 213, 239
- Unterscheidung zwischen K. und Königreich 172, 213
- als größter Feudalherr 174, 231 f., 239
- seine Stellung in der englischen Verfassungstheorie und Praxis 182–204, 244, 316 ff.
- seine neue konservative Beurteilung nach 1789 208, 215, 236 ff.
- sein Vetorecht 233, 237, 238 f., 444
- als Spitze der Exekutive 237, 238 f.
- konservativer Verzicht auf die Königswahl 240, 241
- als Diktator 256, 258
- Leistungen der französischen Könige 389
- in den Verfassungsentwürfen der französischen Royalisten 393 f.
- bei Coleridge 395 f.
- beim Young England 397 f.
- bei Carlyle 452 f.
- bei Maurras 464 f., 467
- Konkretes, s. Abstraktes
- Konservatismus (vgl. Aufklärung, Individualismus, Kapitalismuskritik, König, Kulturkritik, Souveränität, Staat)
 - Sinn seiner Einordnung ins Spektrum der Neuzeit 11–13
 - keine bloße Reaktion gegen Aufklärung und Revolution 11–13, 24, 63, 373
 - kein bloßes geistesgeschichtliches Phänomen 12, 24, 63 f., 89, 209
 - keine anthropologische Konstante 13 ff., 27, 322
 - seine angebliche Theoriefeindlichkeit 16 ff.
 - als Reformulierung der Ideologie der *societas civilis* 17, 25 f., 63, 207, 260 ff.
 - sein angeblicher Realismus 20
 - sein Begriff als geschichtliche Erscheinung 23 ff.
 - als politisches Schlagwort antidemokratischer Liberaler 29 ff., 33, 34, 54, 507
 - im amerikanischen Sinne 34, 50, 50
 - als verdeckte Wendung zum Unpolitischen 56–58
 - linke Verwendung seines Begriffes 61
 - Spaltung zwischen seiner Selbstdarstellung und seiner Praxis 64
 - seine wesentlichen Ambivalenzen 80 f.
 - allgemeiner Charakter des antiabsolutistischen K. 90

- Behandlung von Grundsatzfragen aufgrund von Zweckmäßigkeitsüberlegungen 109
- Leitmotive des antiabsolutistischen K. 124
- frühe Bedeutung von „Konservatismus“ 125 f.
- seine Formen im England des 18. Jh.s 195 f., 204 f.
- Einheit und Vielfalt des gegenrevolutionären K. 207
- seine Leitmotive und sein Charakter 208-10
- seine teilweise Öffnung zum gemäßigten Liberalismus 209, 300 ff.
- seine grundsätzliche Ablehnung des Liberalismus 297 ff.
- und englisches Vorbild 313 ff.
- und Aufklärung 373 ff.
- und Romantik 384 ff.
- seine Loslösung vom Ideal der *societas civilis* 389 ff., 401 ff., 405 f.
- seine Definition vom Fortschritt her 389, 402 f., 409 f., 420 f.
- seine Formen in England nach 1815 394 ff.
- seine Verbürgerlichung in England 399 ff.
- seine Krise in Deutschland 401 ff.
- Beeinflussung seines Charakters durch die Parteipolitik 404 f.
- seine wachsende inhaltliche Vagheit 408 f., 413, 414
- seine Verschmelzung mit (Alt)Liberalismus und Kapitalismus 418 ff., 428 ff., 470, 490 f.
- und Sozialpolitik 432 ff.
- und Rechte 448, 477, 504, 505
- und Carlyle 450 f.
- und Ruskin 457
- und Maurras 464, 468
- und „konservative Revolution“ 475 ff., 481
- und Korporatismus 494, 496
- Konstitutionalismus (vgl. Repräsentation)
 - im liberalen Sinne 233, 320
 - im konservativen Sinne 241, 243 ff., 310 f., 312 f.
 - bei Görres 293
- Korporativer Gedanke (vgl. Faschismus, Nationalsozialismus, Parlament, Rechte) 414, 433, 434, 438, 439 f., 460, 467, 486, 493, 494 ff.
- Korruption 194, 202 f., 204
- Kosmopolitismus 290, 291
- Krieg (vgl. Handel)
 - und Konsolidierung der Fürstenmacht 144
 - Gründe seiner Legitimation durch den Adel 166, 209, 354
 - als Folge des Kapitalismus 365
- Kulturkritik
 - ihre Betonung im konservativen Denken nach 1789 26
 - des Alt- und Neoliberalismus 31 ff., 60 f.
 - ihre konservativen Leitmotive 366 ff.
 - bei Carlyle 449
 - bei Maurras 460 ff.
 - bei Moeller van den Bruck 480 f.
 - Ursprünge und Entwicklung bis heute 501 ff.
- Kunst
 - und Natur in der traditionellen und der neuzeitlichen Auffassung 79
 - unter dem Kapitalismus 448, 455
 - ihre Aufgabe nach Carlyle und Ruskin 454, 455
 - und Gesellschaft bei Ruskin 454, 458
 - bei Moeller van den Bruck 480
 - bei Diederichs 492
- Landwirtschaft (vgl. Industrie)
 - frühe Durchsetzung kapitalistischer Verhältnisse in der englischen L. 186, 195, 394 f.
 - Durchsetzung kapitalistischer Verhältnisse in der deutschen L. 403, 405 f., 407
- Legalität (vgl. Legitimität)
 - vs. Moralität 142, 276, 285
 - vs. Patriarchalismus 285
- Legislative (vgl. Gewaltenteilung)
 - als souveräne Körperschaft 232 ff., 245
 - ihre Ausschließung von der Regierungsbildung 431
- Legitimismus
 - seine Richtungen 388 f., 391
 - seine Einstellung zur Arbeiterfrage 433 f.
 - und Action Française 466
- Legitimität
 - ihre Interpretation aufgrund Zweckmäßigkeitsüberlegungen 106, 251 f.
 - vs. Legalität 220, 228, 251
 - vs. moderne Souveränität 227, 245
 - ihre Verletzung durch Bismarck 415
- Leibeigenschaft 266
- Liberalismus (vgl. Demokratie, Eudämonismus, Individualismus, Jacobinismus, Kon-

- servativismus, Neoliberalismus, Ökonomismus, Wirtschaftsliberalismus)
- seine Bindung an die Trennung von Staat und Gesellschaft 23, 60
- der moderne Staat als seine Voraussetzung 25, 78
- inhaltlicher Unterschied des „konservativen“ Liberalismus vom Konservatismus 29, 36 ff., 49
- seine individualistische Grundeinstellung und deren demokratische Umdeutung 30
- seine Spaltung in Alt- und Sozialliberalismus 30, 33, 419 f., 430
- altliberale Kritik am Sozialliberalismus und an der Massengesellschaft 31 f., 460
- im amerikanischen Sinne 50, 50
- und ideologische Manipulation der Geschichte 110 f., 215
- Burkes angeblicher L. 205
- grundsätzliche konservative Bewertung von ihm 297 ff.
- und Bürgertum 298
- Schwankungen in seiner Beziehung zum Konservatismus 300 ff.
- Schwankungen in seiner Beziehung zum Absolutismus 304 ff.
- im Sinne der ständischen Monarchie 305 f.
- und englisches Vorbild 314, 316, 318 f.
- und Deismus 330
- „wahrer“ L. bei Fouque d' Arles 389
- radikaler L. in England 399, 421 f.
- ideologische Deckung seiner antidemokratischen Wendung 418
- in Deutschland 424 ff.
- im normativen Sinne 424, 427, 477, 505
- „westlicher“ L. 472, 474, 482, 487 f.
- und die Rechte 477
- und Marxismus aus der Sicht der „konservativen Revolution“ 482 f., 486, 487
- Luxus 177 f., 216, 364
- Machtgedanke
 - bei Haller 230 f.
 - bei Cottu 259
 - seine sittliche Begründung 355
- Mandat (freies und imperatives) 117 f., 205 f., 234
- Materialismus (vgl. Eudämonismus)
 - im eudämonistischen Sinne der Massengesellschaft 33, 51, 482 f., 486, 492, 503
 - historischer 59, 482 f.
 - als Atheismus 324, 334
- Mathematik 152
- Mehrwertstheorie 364 f.
- Mensch (vgl. Arbeitsteilung, Industrie)
 - seine Soziabilität 127, 135 f., 153, 261 f., 273, 334 ff.
 - seine konstitutive Bindung an eine Gruppe 164, 334
 - seine Vergöttlichung 211, 223 f., 324, 344
 - seine Unfähigkeit, Recht zu schaffen 217 f., 222
 - als souveräner Gesetzgeber 224
 - seine Autonomie als Loslösung von Gott 323 f., 325
 - kein bloßes Vernunftwesen 331 ff.
 - seine göttliche Herkunft 334 f., 343 f.
 - seine Spiritualität 336
 - seine Bosheit und Sündhaftigkeit 337, 347
 - als Revolutionär 340 f.
 - seine Freiheit 345, 347, 352
 - als homo oeconomicus 356
 - seine Unterdrückung und Spaltung im Kapitalismus 368 ff.
 - seine monistische Auffassung beim Sozialismus 501, 502
- Menschenrechte
 - ihr abstrakter Charakter und ihre Abhängigkeit vom Staat 42 f.
 - ihr revolutionärer Universalismus 287, 289, 290
- Metaphysik
 - als weltfremde Abstraktion 376 f., 419
- Mittelalter 159, 161, 240, 498
- monarchisches Prinzip 245, 280, 320, 425 f.
- Nation
 - bei Burke 250, 292
 - bei Stahl 286
 - im revolutionären und im konservativen Sinne 287 f.
 - als dynastische Schöpfung 288 f., 292, 415
 - als historisch gewachsene Individualität 289 ff., 385
 - ihr Unterschied von der *societas* 292
 - bei Görres 292 f.
 - Wirkungen der nationalen Idee auf den deutschen Konservatismus 294 ff., 414 f.
 - bei Maurras 468 f.
 - in der Weimarer Zeit und bei der „konservativen Revolution“ 471, 472 f., 474, 477 f.
 - und die Rechte 504
- Nationalbolschewismus 479 f.

Nationalökonomie
 – ihre methodischen Prinzipien nach A. Müller 357 f.
 – ihre Kritik bei Coleridge 396
 – ihre Kritik bei Ruskin 456
 Nationalsozialismus
 – Verwendung von Motiven der „konservativen Revolution“ 61
 – und nationale Erniedrigung 428
 – politische Praktiken 489
 – und „Junkonservative“ 491
 – und Nihilismus 493
 – und Korporatismus 499 f.
 – und Bürgertum 506
 Natur, s. Gleichheit, Gott, Hierarchie, Kunst, Revolution, Vernunft
 Naturrecht
 – Schwierigkeiten bei seiner konservativen und bei seiner revolutionären Interpretation 22
 – grundsätzlicher Unterschied des neuzeitlichen vom traditionellen 69, 71
 – Mischformen von traditionellem und neuzeitlichem N. 304
 – sozialpolitische Spitze des revolutionären N.s 335
 Naturzustand
 – der *societas civilis* 159
 – beim neuzeitlichen Naturrecht 261, 263
 – im konservativen Sinne 263 f.
 Neoliberalismus
 – als Fortsetzung der altliberalen Kritik an der Massengesellschaft 32 ff.
 – seine englischen Vorformen 34 f., 422
 – seine amerikanische Version 49 ff.
 – seine Vorformen in der „konservativen Revolution“ 60, 478, 485 f., 487 ff.
 Neuzeit
 – ihre weltanschaulichen Grundzüge 78–80
 – ihre Züge aus konservativer Sicht 210–212, 223, 258
 Obrigkeit 222, 268, 280
 Öffentliches
 – seine Trennung vom Privaten infolge der neuzeitlichen Souveränität 77, 142 f., 175, 276
 – konservative Ablehnung dieser Trennung 276 f., 500
 – sozialistische Ablehnung derselben 500, 502
 Ökonomie
 – ihre Eigengesetzlichkeit und die Trennung von Staat und Gesellschaft 356 f., 372
 – als Funktion von Zwischenmenschlichen Beziehungen 358, 456, 502
 Ökonomismus 33, 35, 36, 52, 53, 58, 59, 371, 482, 487, 492, 493
 Oligarchie (vgl. Demokratie)
 – ihre souveräne Herrschaft in England 192 ff.
 Ordnung
 – konservativer Monopolisierungsversuch des Ordnungsgedankens 21 f.
 – Vagheit des Ordnungsbegriffes 58 f.
 – Analogie zwischen kosmischer und sozialer Ordnung 168, 346
 – bei Maurras 462 f.
 organisches Prinzip
 – seine Deutungsmöglichkeiten 247, 249 ff.
 orientalische Despotie 169, 241, 283
 Paganismus (vgl. Heidentum) 449, 464, 481
 Pantheismus
 – vs. Christentum 211
 – im Sinne der Vergöttlichung des Irdischen 326 f.
 – als Antwort auf den Deismus 381 f.
 Papst 132, 147, 183, 229, 279
 Parlament
 – sein traditioneller Begriff in England 151, 185, 188, 395
 – sein souveräner Begriff in England 190, 191, 197
 – der Sinn seiner Souveränität bei Burke 234 f.
 – im Kaiserreich 425 f.
 – bei Carlyle 452
 – seine Unterminierung durch den Korporatismus 495 f., 497
 Partei 204, 404, 407, 411, 491, 500, 505
 Patriarchalismus (vgl. Legalität)
 – bei Mirabeau 176
 – sein früher Untergang in England 195, 398, 434 f.
 – bei Marwitz 265
 – als „Solidarität“ 266
 – zerteilt die Staatsautorität 280
 – als „Liebe“ 285, 368, 370, 437
 – sein Untergang in Deutschland 406, 437, 445
 – bei Ruskin 458
 Patrimonialrechte bzw. Patrimonialgerichtsbarkeit 173, 402, 403, 407, 408

Patriotismus 288, 291
 Politik bzw. Politisches (vgl. Ethik)
 – „konservative“ Forderung nach Primat des Politischen 59
 – „Politik“ im traditionellen Sinne 132, 136, 139
 – ihre Trennung von der Ethik 138 ff., 208, 356 f.
 – ihr neuzeitlicher Sinn 138 ff.
 – ihr Verständnis vom Ausnahmezustand her 144 f.
 – ihre antik-republikanische Auffassung 211
 – ihre konservative Einheit mit Ethik und Ökonomie 356 f.
 – Wandlung des Politischen infolge der Autonomie des Ökonomischen 362, 403
 – als Parteipolitik in der kapitalistischen Gesellschaft 404 f., 413
 Prärogative 187 ff., 199, 200, 202, 203, 235, 236 f.
 Primogenitur 302, 402
 Privates, s. Öffentliches
 Privilegien 69, 167
 Protektionismus 387, 423
 Protestantismus (vgl. Rationalismus)
 – Sympathien des Adels für den Protestantismus 86, 92 f.
 – als Vorläufer der Revolution 211, 280 f., 318
 Rasse 289
 Rationalismus
 – und Zersetzung der Werte in der Massengesellschaft 33
 – als Primat menschlicher Ratio 224, 324, 333
 – und Protestantismus 280
 Reaktion (vgl. Diktatur)
 – angeblich dem Konservativismus wesensfremd 37
 – als Vorstufe der Diktatur 208
 – ihr Sinn und ihre Voraussetzungen 248
 Recht (vgl. Gerechtigkeit)
 – nach der Auffassung der *societas civilis* 65 ff., 217
 – nicht machbar, sondern gottgegeben 65, 218 f.
 – und Sitte 66 f., 155 f.
 – Schaffung neuen Rechts als Interpretation des alten 67, 183, 198, 219
 – und Privatrecht bzw. Vorrecht 68 f.
 – kein Wille des Monarchen 94
 – seine konkrete Verortung 156 f., 290
 – römisches 157 f., 284 f.
 – seine Kodifizierung 157 f.
 – als menschliches Werk 191 f.
 – Reformulierung der traditionellen Rechtsauffassung nach 1789 217 ff.
 – sein Charaktersunterschied vom Gesetz 220 f.
 – seine historische Begründung 225 f., 352
 – als Souverän 228
 – seine Verletzung durch den Staat 283
 – und Freiheit 352
 Rechte (vgl. Diktatur, Konservativismus)
 – ihr Nationalismus 495
 – ihr Korporatismus 496
 – und die Autonomie der Gesellschaft 496 f.
 – und Kulturkritik 503
 – und Wirtschaftsliberalismus 504 f.
 – und Trennung von Staat und Gesellschaft 504 f.
 – ihre Grundsätze 504 f.
 Rechtsstaat 256, 283
 Regierungsgewalt
 – ihre Inferiorität gegenüber der *societas* 128 f., 272
 – als Produkt des Sündenfalls 131, 136, 274
 – ihre Autonomisierung gegenüber der *societas* 138, 139, 283
 Reichtum
 – im konservativen Sinne 178, 358, 363 f.
 – bei Ruskin 456 f.
 Religion
 – ihre Trennung von der (neuzeitlichen) Politik 77, 142 f.
 – ihre utilitaristische Betrachtung 148, 377 f.
 – und Staat im konservativen Verständnis 277 ff., 332, 390
 – und Politik 277
 – ihre anthropologische Verwurzelung 332
 – ihre Ästhetisierung 380 f., 449, 455
 Repräsentation
 – Unterschied zwischen parlamentarischer und ständischer R. 115 ff., 308 ff.
 Revolution
 – als Vollendung souveräner Staatlichkeit 208, 232
 – Verwandlung der politischen R. in soziale 209, 298
 – als religiöses Phänomen 222, 329
 – ihre geschichtsphilosophische Überwindung 342 ff.

- als Aufstand des Menschen gegen Gott 345, 349
- als Verletzung der Natur 346, 347
- ihre konservative Erklärung 347 ff.
- und Krise des Kapitalismus 365 f.
- Romantik
 - ihr Subjektivismus und ihre Sentimentalität 325
 - ihr Begriff 382 f.
 - keine „Spätromantik“ 384 ff.
 - und Revolution bei Maurras 463
- Säkularisierung 70, 78, 87, 209, 378
- Souveränität
 - der Kampf gegen die moderne S. als Wesensmerkmal des Konservatismus 24, 63 f., 78, 208, 226 ff., 257
 - keine Gewalt der *societas civilis* ist souverän im modernen Sinne 69 f., 113
 - ihr neuzeitlicher Begriff 72 ff.
 - ihr traditioneller Begriff 74, 95 f., 182 f., 188, 226, 227 ff., 233
 - ihr neuzeitlicher weltanschaulicher Hintergrund 78–80
 - traditioneller Gebrauch von „souverän“ 97 f.
 - ihre Beanspruchung durch ihre ursprünglichen Feinde 106, 190 f.
 - als Wesensmerkmal moderner Staatlichkeit 112
 - das Problem der S. in England 184 ff.
 - und Vertragstheorie 267
 - und moderner Staat 271, 273
- Sozialdarwinismus 52, 414, 417, 418, 473
- Sozialismus, s. Demokratie, Kapitalismuskritik, Mensch
- Sozialpolitik
 - als karitative Tätigkeit 432, 437, 441
 - als antiliberaler und antikapitalistischer Waffengebrauch 433, 436, 437 f., 440 f.
 - und Staat 433 f., 436, 438, 439, 441 f., 445
 - und Conservative Party 435 f.
 - Zweideutigkeit der christlichen Einstellung zu ihr 436, 437, 442
- Sozialstaat, s. Wohlfahrtsstaat
- Staat (vgl. Demokratie, Gemeinwohl, Gesellschaft, Kirche, Rechte, Sozialpolitik, Staatsräson, Staatszweck, Wohlfahrtsstaat, *societas civilis*)
 - seine Trennung von der Gesellschaft und der Untergang des Konservatismus 23
 - sein Sieg über die bürgerliche Gesellschaft und der Untergang des Liberalismus 23
 - und Auflösung der *societas civilis* 27
 - und Wirtschaft 35, 420 f., 422 f., 467
 - als Despot in einer atomisierten Gesellschaft 42
 - und zeitgenössisches Bürgertum 47 f.
 - „konservativer“ Ruf nach seiner Stärkung 59 f.
 - als höchster Zweck auf Erden 77
 - seine Trennung von der Gesellschaft als Folge neuzeitlicher Souveränität 83
 - als disziplinierende Macht 110
 - seine Monopolisierung der Politik und seine Trennung von der Ethik 138 ff., 356 f., 362
 - seine konservative Unterwerfung unter die Ethik 147
 - Aufbau des Staatsapparates und seine Folgen 169 ff.
 - Aufbau des Staatsapparates in England 192 f., 195 f.
 - und Auflösung der *civitas christiana* 211
 - konservative Forderung nach Abbau des Staates 173, 240
 - sein Einsatz gegen die Revolution 246 ff.
 - im konservativen Sinne von „*societas*“ 271 ff.
 - und Gesellschaft bei Stahl 275 f.
 - und Religion 277 ff.
 - als Umkehrung der Struktur der *societas civilis* 77, 283
 - als Maschine 283
 - Ambivalenz der konservativen Einstellung zu ihm 285 f.
 - und Nation 287
 - und Kapitalismus 355 f.
 - und die Spaltung der Einheitlichkeit des Sozialen 372
 - seine Monopolisierung der Gewalt und seine Trennung von der Gesellschaft 403
 - und Adel in Deutschland 412, 414, 426 f.
 - und Gesellschaft bei Maurras 467 f.
 - „autoritärer“ und „totaler“ S. 474, 483, 489 f.
 - und Gesellschaft bei der „konservativen Revolution“ 488 ff.
 - und Korporatismus 496 ff.
- Staatsnotrecht 247, 256
- Staatsräson
 - als Folge moderner Souveränität 77
 - avant la lettre bei Machiavelli 139
 - als Autonomisierung des Menschlichen und der menschlichen Vernunft 141 f.

- ihre konservative Ablehnung 235, 282
- Staatszweck (vgl. Gemeinwohl) 272, 283 f.
- Stadt
 - frühe konservative Abneigung gegen sie 175 f.
 - und Adel 216
 - Übergewicht über das Land 255, 312
 - als Zentrum kapitalistischer Wirtschaft und Kultur 365, 395, 404, 414
 - kulturkritisch motivierte Abneigung gegen sie 473
- Stände
 - ihre permanenten Forderungen 105
 - Wesensunterschied zwischen Ständetum und modernem Parlamentarismus 112 ff.
 - ihre bunte Vielfalt 119
 - ihre partikularistische Einstellung 120
 - Gründe für die Entwicklung des Ständetums in England 121
 - ihre Ideologie 123
 - ihr antiklerikales Bündnis mit der englischen Krone 183, 184 f.
 - ihre Beseitigung durch die Zentralisierung 215
 - bei de Maistre 229
 - Feststellung ihrer Schwäche nach 1789 241, 243, 247, 286, 309 f., 312, 409
 - ihre Umfunktionierung im parlamentarischen Sinne 311 f.
- Steuer bzw. Besteuerung 86, 117, 169, 173 ff., 179, 193, 196, 240, 284, 392, 402, 443
- Theodizee 345 ff.
- Theorie
 - ihre polemische Funktion 17 f.
 - ihre untergeordnete Bedeutung für das Leben 337 f.
 - und Praxis 338
- Toleranz
 - und Permissivität 33
 - als Folge neuzeitlicher Souveränität 77
 - und Trennung von Privatem und Öffentlichem, Religion und Politik 143, 277
 - ihre konservative Ablehnung 277 f.
- Tradition
 - ihre Vieldeutigkeit und Machbarkeit 21, 151
 - ihr Verfall in der Massengesellschaft 33, 41, 44
 - ihre aktivistische Verteidigung 102 f.
- Traditionalismus

- keine Vorstufe des Konservatismus 14, 15, 103, 108, 125
- und Müdigkeit des Adels 110
- Tugend 164
- Tyrannenmord 103, 104, 184
- Ultras 216 f., 251, 388
- Universalismus (vgl. Menschenrechte) 43, 288, 289, 290, 294, 376, 410, 414, 482
- Utilitarismus 33, 43, 377, 396, 398, 419, 448, 482, 487
- Vernunft (vgl. Mensch, Rationalismus)
 - Staatsräson und Entdeckung der zweckrationalen Vernunft 141, 149
 - Unterwerfung der individuellen V. unter die kollektive 150, 152, 263
 - Unterscheidung zwischen künstlicher und natürlicher Vernunft bei Coke und Burke 151 f., 332
 - Ansprüche der autonomen Vernunft 154 f., 208, 212, 224, 336
 - Kristallisierung kollektiver Vernunft im Gewohnheitsrecht 156
 - ihre Schwäche 225, 335
 - revolutionäre Vernunft als Gegensatz zur Natur 331
 - im guten und schlechten Sinne bei Burke 331 f.
 - bei Maistre 333
 - bei Müller und Coleridge 334
 - bei Bonald 378
 - ihre Verankerung im Überindividuellen 335
- Vertragstheorie
 - Gegensatz der neuzeitlichen zur scholastischen 127, 129 f., 132, 136
 - Lockes V. und die Whigs 201
 - als Wegbereiter der Revolution 212
 - ihre konservative Widerlegung 266 ff.
 - und moderne Souveränität 267
 - bei Haller 267 f.
 - bei Möser 268 f.
 - bei Burke 269 ff.
- Völkerrecht 147, 281
- Völkischer Gedanke 414, 431, 473, 474, 475 f., 479, 480 f.
- Volk
 - im Sinne von „Adel“ bzw. als Inbegriff der Oikos-Führer 92, 95, 100, 104 f., 116, 134
 - legitimiert das Parlament 191
 - seine Rechte nicht ursprünglich 229, 242

- im konservativen Sinne 235, 264, 306 f.
- im „natürlichen“ und „rechtlichen“ Sinne 289
- im Sinne neuzeitlicher Staatlichkeit 310
- beim jungen Disraeli 397
- Volksgemeinschaft 413 f.
- Volkssouveränität 205, 214, 223, 230, 232, 235, 280, 287, 288, 299, 308, 310, 323, 327, 347
- Voluntarismus 223, 379
- Vorurteil 332, 333
- Wahlrecht 43, 259, 308, 392, 398, 415, 425, 426, 433, 435 f., 458, 496, 497
- Widerstandsrecht (vgl. Aktivismus)
 - sein Absterben 74, 100 f., 110, 184, 240
 - als Ausdruck konservativen Aktivismus 102 f., 208, 237
 - seine Herausbildung 103
 - Vorrecht des Adels 103 f.
 - und göttliches Recht 137
 - seine revolutionäre Umdeutung 229
- Wirtschaftsliberalismus
 - seine sozialen und kulturellen Folgen 43 ff.

- frühe konservative Polemik dagegen 180 f.
- seine Mißheirat mit religiös-sittlichen Werten 422
- vs. Paternalismus in der Conservative Party 423 f.
- vs. politischen Liberalismus 431
- und „konservative Revolution“ 471, 483, 484, 486 ff.
- und korporativer Gedanke 494, 495
- Wohlfahrt
 - als Zweck des säkularen Staates 78, 221, 283, 304, 336 f., 355
- Wohlfahrtsstaat
 - alt- und neoliberale Polemik gegen ihn 32, 33, 45, 50 f., 56, 59, 393, 421 f., 486, 487 f., 496
 - sein Ausbau nach dem Zweiten Weltkrieg 45 f.
- Zentralisation 44, 214, 251, 255, 258, 283, 284, 286, 310, 393, 396, 462, 486, 488
- Zins(verbot) 179
- Zunftwesen 180 f.

- ancien régime
 - Gründe seiner Idealisierung 215 f., 237 f., 315, 348 f., 389, 460, 463
- arcana imperii 145
- auctoritas 128 f.
- civitas christiana 281, 287, 288
- common law 150 f., 157, 188, 190 f., 197, 219
- coup d'état 144, 256
- coutume (vgl. lex)
 - und Gesetz bei Bodin 73
 - bei Coquille 155 f.
- imperium 97
- imperium merum 72, 75
- justitia distributiva, s. Gerechtigkeit
- laissez-faire 35, 52, 180, 195, 307, 319, 398, 422, 435
- leges fundamentales bzw. lois fondamentales 133 f., 228, 229 f., 238, 239, 262
- lex

- Gegenüberstellung zur voluntas 71
- Loslösung vom ius 73, 74, 220
- und consuetudo 157
- lex salica 106
- pactum societatis 127 ff., 201
- pactum subiectionis 128 ff., 201, 238
- populus (vgl. Volk) 134
- potestas 128 f., 135, 262, 268, 279
- potestas absoluta 96, 97
- potestas coerciva 131
- potestas directiva 131
- pouvoir, s. potestas
- pouvoir absolu vs. pouvoir arbitraire 97 f., 228
- pouvoirs intermédiaires 165 f., 213, 239
- princeps legibus solutus 72, 91, 157
- regalia 114, 115
- societas civilis (vgl. Gesellschaft, Gott, Industrie, Nation, Recht, Staat)
 - ihre Rechtsauffassung 65 ff.

- als sozialpolitisch polyzentrische und ideologisch einheitliche Struktur 77, 282 f.
- sie wird gegründet und getragen von den Oikos-Führern 116, 127, 265, 268
- ihr Primat gegenüber der Regierungsgewalt 126 ff.
- der Vorgang ihrer Entstehung 127 f.
- die Unabänderlichkeit ihrer Struktur 129, 261
- sie kennt keinen Gegensatz zwischen populus und rex 134, 172
- ihr ethischer Zweck 136 f., 260, 270, 276, 356, 371

- die Einheit von Ethik und Politik in ihr 138
- ihr Naturzustand 159
- ihre Verteidigung nach 1789 238 f., 246, 260 ff.
- die These von ihrer Unmachbarkeit und deren normative Implikationen 260 ff.
- Einheit aller Bereiche des Sozialen in ihr 356 f., 359
- ihre ästhetisierte Darstellung 382
- superioritas (summa potestas, maiestas) 75
- verum factum convertuntur 75
- volonté générale 218, 292